

**Exhibit A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL A. CRUZ, and JOHN D.  
HANSEN, individually, and on  
behalf of all others similarly  
situated,

Plaintiffs,

vs.

DOLLAR TREE STORES, INC.,

Defendant.

**COPY**

Case No: C07 02050 SC

ROBERT RUNNINGS, individually,  
and on behalf of all others  
similarly situated,

Plaintiff,

vs.

DOLLAR TREE STORES, INC.,

Defendant.

Case No: C 07 04012 SC

DEPOSITION OF ROBERT LEWIS RUNNINGS

VOLUME I, pages 1 to 383

00023

- 1 me, would you like me to tell you? 09:
- 2 Q Please. 09:
- 3 A Okay. 09:
- 4 Q Do you know whether he's working there? 09:
- 5 A Yes. He works for Bed, Bath & Beyond. 09:
- 6 Q Somewhere in Idaho? 09:
- 7 A Yes. Southern Idaho. 09:
- 8 Q So Mr. Avelar told you that he was 09:
- 9 applying and suggested you might do the same? 09:
- 10 A Correct. 09:
- 11 Q Where did you apply? 09:
- 12 A I believe I filled out an application 09:
- 13 and turned it in to the Healdsburg store, but I 09:
- 14 actually interviewed as such over the phone with 09:
- 15 the district manager at the time. 09:
- 16 Q Who was that? 09:
- 17 A Jim Mullet. 09:
- 18 Q What was your first position with Dollar 09:
- 19 Tree? 09:
- 20 A I was brought on as an MIT. 09:
- 21 Q For how long did you work as an MIT? 09:
- 22 A I started in April of '04 and was an MIT 09:
- 23 until November of '04. 09:
- 24 Q Where did you work as an MIT? 09:
- 25 A I worked in Healdsburg and Roseland. 09:

00025

- 1 A Correct. 09:
- 2 Q And that store number is 2939? 09:
- 3 A Yes. 09:
- 4 Q Is it correct that you have been store 09:
- 5 manager of the Willits store since, 09:
- 6 approximately, November 2004? 09:
- 7 A Yes. 09:  
[REDACTED]
- 8 Q Is it correct that aside from a couple 09:
- 9 of days here and there when you might be at a 09:
- 10 different store, that your working experience has 09:
- 11 been at three Dollar Tree stores? 09:
- 12 A Yes. 09:
- 13 Q Those stores are Healdsburg, Roseland 09:
- 14 and Willits; is that right? 09:
- 15 A Yes. 09:
- 16 Q From time to time have you been at other 09:
- 17 stores, either in inventory situation or for some 09:
- 18 other reason? 09:
- 19 A Yes. 09:
- 20 Q What other stores have you been in? 09:
- 21 A I believe every store in the district 09:
- 22 except Crescent City. 09:
- 23 Q Every store in what district? 09:
- 24 A It's now 460. 09:
- 25 Q 460 used to be in 181; is that right? 09:

00030

1 Q You don't check age, for example, for 09:

2 candy sales? 09:

3 A No. We do check for sales of knives. 09:

4 Q Does Willits have frozen food? 09:

5 A Yes. 09:

6 Q Is that different from Roseland and 09:

7 Healdsburg? 09:

8 A At the time, yes. 09:

9 Q Does that impact the job of a store 09:

10 manager? 09:

11 A Yes. 09:

12 Q How? 09:

13 A It's another order that has to be wrote 09:

14 and another department that needs to be stocked. 09:

15 Q Is some of the frozen food delivered 09:

16 locally by local vendors? 09:

17 A I don't believe so, no. 09:

18 Q Not at Willits? 09:

19 A No. 09:

20 Q Is that right? 09:

21 A Yes. 09:

22 Q Do you have any local vendor deliveries 09:

23 at Willits? 09:

24 A Yes. 09:

25 Q For what goods? 09:

00034

- 1 A Yes. 09:
- 2 Q How did the addition of frozen food 09:
- 3 affect the need to reconfigure your stockroom? 09:
- 4 A They placed the stockroom coolers for 09:
- 5 all the back stock right in the dead center of 09:
- 6 the stockroom, eliminating quite a bit of space. 09:
- 7 So we had to reconfigure our storage for all the 09:
- 8 different departments. 09:
- 9 Q Did you actually do a schematic for 09:
- 10 that? 09:
- 11 A I believe so. On the back of a piece of 09:
- 12 cardboard, yes. 09:
- 13 Q You wouldn't frame it? 09:
- 14 A No. 09:
- 15 Q Can you tell me how you figured out 09:
- 16 where everything should go in that new 09:
- 17 configuration? How did you do that? 09:
- 18 A Dollar Tree has some guidelines as to 09:
- 19 what they would like closest to the doors. The 09:
- 20 first is the floor items, such as food, and then 09:
- 21 we just ran with what space was available and 09:
- 22 which departments we had the most merchandise 09:
- 23 that we had to store. 09:
- 24 Q So you put the food closest to the door; 09:
- 25 is that right? 09:

00035

- 1 A Correct. 09:
- 2 Q Then you determined the rest of the 09:
- 3 staging by virtue of what you sold the most? 09:
- 4 A No. It was based on, basically, what we 09:
- 5 had in the back room. Back stock wise. 09:
- 6 Q So you based it on the inventory you 09:
- 7 actually had; is that right? 09:
- 8 A Yes. 09:
- 9 Q Have you changed that over time? 09:
- 10 A There's been some small adjustments to 09:
- 11 it, yes. 09:
- 12 Q Are these adjustments that you made? 09:
- 13 A Some by me; some by my freight manager. 09:
- 14 Q Have you had the same freight manager 09:
- 15 during the time that you've been at Willits? 09:
- 16 A No. 09:
- 17 Q Who is your current freight manager? 09:
- 18 A His name is Andrew Wright, W-R-I-G-H-T. 09:
- 19 Q How many previous freight managers have 09:
- 20 you had? 09:
- 21 A At least three. 09:
- 22 Q Do you agree that the more skilled your 09:
- 23 assistant store managers, the easier it is for 09:
- 24 you to manage? 09:
- 25 A Yes. 09:

00039

- 1 recovery that's necessary? 09:
- 2 A Yes. 09:
- 3 (Discussion was held off the record.) 09:
- 4 (Exhibit 1 was marked for identification.) 09:
- 5 BY MS. MCCLAIN: 09:
- 6 Q Mr. Runnings, Exhibit 1 is a document 09:
- 7 that was produced by your counsel. Do you 09:
- 8 recognize this document? 09:
- 9 A Yes. 09:
- 10 Q What is a cashier comparison report? 09:
- 11 A This is the cashier statistics, that's 09:
- 12 usually what we call it, and it shows each 09:
- 13 individual cashier, how much time -- excuse me, 09:
- 14 how many customers they have, their average 09:
- 15 sales. Basically, all their basic statistics. 09:
- 16 Q This is a Dollar Tree form; is that 09:
- 17 right? 09:
- 18 A Yes. 09:
- 19 Q And this is something you've worked with 09:
- 20 as a store manager at Dollar Tree; is that right? 09:
- 21 A Yes. 09:
- 22 Q How do you work with it as a store 09:
- 23 manager? What do you look at this form for? 09:
- 24 A We -- it automatically prints out, and 09:
- 25 so we see it each morning when we walk in. We 09:



00040

- 1 glance over it real quick and look for any 09:
- 2 oddities. 09:
- 3 Q What would you consider an oddity? 09:
- 4 A A cashier variance. We look at post 09:
- 5 voids and we look for item voids. Those are the 09:
- 6 basics. 09:
- 7 Q Are you essentially looking to see 09:
- 8 whether any cashier is taking money? 09:
- 9 A Yes. 09:
- 10 Q Are you looking for anything else? 09:
- 11 A To see how busy it was. To see how many 09:
- 12 customers the assistant managers checked through. 09:
- 13 Q As a store manager, you do that every 09:
- 14 morning? 09:
- 15 A Yes. 09:
- 16 Q Do you ever look at the statistics on a 09:
- 17 week basis? 09:
- 18 A Yes. 09:
- 19 Q Why did you do that? 09:
- 20 A It gives you just a more general 09:
- 21 overview of the entire week. Somebody may have 09:
- 22 one day that's not kosher and when it's broke 09:
- 23 down to the entire week, they fall in line with 09:
- 24 what they are supposed to be. 09:
- 25 Q Do you have a particular day when you 09:

00048

1 Q Who has told you you're not supposed to 09:

2 throw freight a lot? 10:

3 A Dollar Tree. 10:

4 Q Are there Dollar Tree people who have 10:

5 told you that? Have you received written 10:

6 communications? 10:

7 A We have been told that in various 10:

8 meetings. It's on our compliance sheet. I've 10:

9 been told that by Rick. 10:

10 Q Mr. Tellstrom? 10:

11 A Yes. 10:

12 Q Mr. Tellstrom is currently your district 10:

13 manager; is that right? 10:

14 A Yes. 10:

15 Q You would agree, then, that the Dollar 10:

16 Tree policy that has been expressed to you is 10:

17 that you are not supposed to do physical work 10:

18 more than 50 percent of the time? 10:

19 A I believe it's less than that. 10:

20 Q You're not supposed to do physical work 10:

21 more than 35 percent of the time? 10:

22 A That sounds about right. 10:

23 Q Was there any other eliminate of 10:

24 unhappiness that was expressed at this meeting 10:

25 that you recall, other than throwing too much 10:

00060

- 1 Mr. Runnings, are the assistant managers with 10:  
2 whom you have spoken about your unhappiness with 10:  
3 Dollar Tree the assistant managers who are listed 10:  
4 on this schedule? 10:  
5 A Not Chris. Chris is brand new, so the 10:  
6 13th was his first day. 10:  
7 Q Aside from Chris, you have spoken to 10:  
8 Ashley, Michael and Andrew; is that right? 10:  
9 A Yes. 10:  
10 Q Essentially, what have you said to them? 10:  
11 A How unhappy I am. 10:  
12 Q Is that all you've said? 10:  
13 A How unhappy I am with the situation. 10:  
14 And, you know, when they come to me with their 10:  
15 concerns about not having enough help, and I let 10:  
16 them know there's nothing I can do about it. 10:  
17 It's Rick and Rick's superiors. So... 10:  
18 Q So you've had conversations with them 10:  
19 about the fact that you would like more hours in 10:  
20 the store; is that right? 10:  
21 A Yes. 10:  
22 Q Have you generally had four assistant 10:  
23 managers throughout the time that you've been a 10:  
24 store manager? 10:  
25 A For 2005 and '6, yes. And then they 10:

00061

1 eliminated the fourth spot and reduced us to 10:

2 three. 10:

3 Q You're back up to four? 10:

4 A No. No. Michael is no longer employed. 10:

5 Q So Chris replaced Michael; is that 10:

6 right? 10:

7 A Yes. 10:

8 Q In 2007, how did it come to be that they 10:

9 reduced you to three? Who was "they"? 10:

10 A Dollar Tree, as a whole. 10:

11 Q How do you know that? 10:

12 A They did it, I believe, company wide. 10:

13 Actually, I don't know if it's company wide. 10:

14 They did it in California. 10:

15 Q How was that communicated to you? 10:

16 A I believe I first heard it from Rick. 10:

17 Q Have you ever seen anything in writing 10:

18 about this elimination? 10:

19 A I don't think so. 10:

20 Q What did Mr. Tellstrom tell you? 10:

21 A At the time I lost an assistant manager 10:

22 and wanted to find a replacement, and he said 10:

23 that she would not be replaced. 10:

24 Q Who was that? 10:

25 A Elizabeth Segmiller. 10:

00062

- 1 Q Do you agree that the individuals who 10:  
2 are best able to comment upon your actual work at 10:  
3 Dollar Tree are your assistant store managers? 10:  
4 MR. COLE: Objection. Calls for speculation. 10:  
5 BY MS. MCCLAIN: 10:  
6 Q Are they in a position, as far as you 10:  
7 can observe, to have observed what you were 10:  
8 doing? 10:  
9 MR. COLE: Objection. Calls for speculation. 10:  
10 If you can answer, go ahead. 10:  
11 THE WITNESS: Yes. 10:  
12 BY MS. MCCLAIN: 10:  
13 Q Aside from your assistant store 10:  
14 managers, are there other people that you believe 10:  
15 are in a position to observe what you do at work 10:  
16 and when you work? 10:  
17 MR. COLE: Same objection and compound. 10:  
18 Go ahead, if you can. 10:  
19 THE WITNESS: Customers. Customers come in 10:  
20 all the time and comment, you know, Oh, you're 10:  
21 sure busy today. So I guess customers. Yeah. 10:  
22 BY MS. MCCLAIN: 10:  
23 Q Anyone else? 10:  
24 A Rick. 10:  
25 Q How often do you see Mr. Tellstrom in 10:

00063

- 1 person? 10:
- 2 A It varies. It varies week to week. 10:
- 3 Q In 2007, can you give me an estimate of 10:
- 4 the highest amount of times he's been in your 10:
- 5 store per week and the lowest amount? 10:
- 6 A The lowest would be not seeing him at 10:
- 7 all; the highest would probably be four times a 10:
- 8 week. 10:
- 9 Q There have been weeks, then, in 2007 10:
- 10 when you haven't personally seen Mr. Tellstrom? 10:
- 11 A Yes. 10:
- 12 Q Is that a rarity? Does it happen often? 10:
- 13 A It happens fairly often. 10:
- 14 Q If Mr. Tellstrom visits you four times 10:
- 15 per week, to your observation, is there a 10:
- 16 particular reason for that? 10:
- 17 A No. We are his home store, so he stops 10:
- 18 in to do paperwork. Stuff like that. 10:
- 19 Q Does he have an office at the Willits 10:
- 20 store? 10:
- 21 A He shares my office. 10:
- 22 Q Are there times when he comes to the 10:
- 23 store and just does his work without interacting 10:
- 24 with you? 10:
- 25 A No. 10:

00064

- 1 Q He always talks to you? 10:
- 2 A Yes. 10:
- 3 Q Are those conversations occasionally 10:
- 4 quite brief? 10:
- 5 A Yes. 10:
- 6 Q Can you estimate for me, let's say last 10:
- 7 week, how many hours you spent talking to 10:
- 8 Mr. Tellstrom? 10:
- 9 A Like, maybe a couple of hours. 10:
- 10 Q Would that include conversations by 10:
- 11 telephone as well as in-person conversations? 10:
- 12 A Yes. 10:
- 13 Q Is that generally reflective of the 10:
- 14 amount of time you would communicate with 10:
- 15 Mr. Tellstrom per week? 10:
- 16 A No. 10:
- 17 Q Is it too high or too low? 10:
- 18 A Last week was more than normal. 10:
- 19 Q What would your estimate be with contact 10:
- 20 with the district manager in a normal week? 10:
- 21 A I would say probably an hour. Most of 10:
- 22 it by phone. 10:
- 23 Q Is it correct that you are the highest 10:
- 24 management person generally at 2939? 10:
- 25 A Yes. 10:

00065

- 1 Q Are you the highest management person 10:  
2 there 90 percent of the time? 10:  
3 A Aside from when Rick or his supervisors 10:  
4 are there, yes. 10:  
5 Q In those normal weeks when you are 10:  
6 communicating with a district manager about an 10:  
7 hour of the time during the week, what kinds of 10:  
8 topics are you and the district manager 10:  
9 communicating about; can you give me some 10:  
10 examples? 10:  
11 A It's usually just him telling me what he 10:  
12 wants to see get done over the course of the 10:  
13 week. 10:  
14 Q Such as? 10:  
15 A Whether or not the schedule has been 10:  
16 wrote yet, whether or not certain displays have 10:  
17 been built, how certain employees may be doing. 10:  
18 Q Do you hire for store 2939? 10:  
19 A Yes. 10:  
20 Q How many employees do you think you've 10:  
21 hired since November of 2004? 10:  
22 A I don't know. 10:  
23 Q More than 30? 10:  
24 A Yes. 10:  
25 Q More than 50? 10:



00066

- 1 A Yes. 10:
- 2 Q More than 70? 10:
- 3 A Yes. I would say over 100. Beyond 10:
- 4 that, I'm not sure. 10:
- 5 Q Are those hires in both assistant store 10:
- 6 manager positions and hourly associate positions? 10:
- 7 A The hourly -- the cashiers and stockers, 10:
- 8 yes; assistant managers, up until Rick took over. 10:
- 9 Q Do you have any particular way in which 10:
- 10 you obtain applications? 10:
- 11 A Just from people bringing them in. 10:
- 12 Q Do you have a sign in the store saying 10:
- 13 "Please Apply"? 10:
- 14 A Yes. 10:
- 15 Q Is it correct that until Mr. Tellstrom 10:
- 16 took over as a DM, you had sole authority in 10:
- 17 hiring assistant store managers? 10:
- 18 MR. COLE: Objection. Vague and ambiguous as 10:
- 19 to "sole authority." 10:
- 20 BY MS. MCCLAIN: 10:
- 21 Q I thought that's what you told me, that 10:
- 22 before Rick started, you hired assistant store 10:
- 23 managers; is that right? 10:
- 24 MR. COLE: I'm sorry. Is that the same 10:
- 25 question you asked him earlier or a different 10:

00071

1 Q Was there any component in the manager- 10:

2 in-training program on hiring? 10:

3 A Not that I know of. No. 10:

4 Q Is there any other aspect of your job 10:

5 that you think you are not so good at aside from 10:

6 interviewing? 10:

7 A No. I don't think so. 10:

8 Q If you look at Exhibit 3, was Ms. Massey 10:

9 someone you hired? 10:

10 A I hired her as a cashier. 10:

11 Q Is Ms. Massey someone you promoted? 10:

12 A Yes. 10:

13 Q Do you recall when she became an 10:

14 assistant store manager? 10:

15 A I don't. 10:

16 Q Was that your decision to promote her? 10:

17 A It was a co-decision with Mr. Tellstrom. 10:

18 Q Did you recommend her promotion? 10:

19 A Yes. 10:

20 Q Did Mr. Tellstrom accept that 10:

21 recommendation? 10:

22 A I had another store manager interview 10:

23 her and Rick discussed it with that manager, and 10:

24 then it was approved. 10:

25 Q Who was that store manager? 10:

00075

- 1 Q You need to be there during the day? 10:
- 2 A We need somebody there during the day. 10:
- 3 MR. COLE: Let's take a short break. 10:
- 4 MS. MCCLAIN: Sure. 10:
- 5 THE VIDEOGRAPHER: The time is approximately 10:
- 6 10:30 a.m. We are now off the record. 10:
- 7 (Recess taken from 10:30 a.m. to 10:50 a.m.) 10:
- 8 THE VIDEOGRAPHER: The time is approximately 10:
- 9 10:50 a.m. We are back on the record. 10:
- 10 BY MS. MCCLAIN: 10:
- 11 Q Mr. Runnings, is it correct that your 10:
- 12 retail experience prior to Dollar Tree was as a 10:
- 13 department manager not a store manager? 10:
- 14 A Yes. 10:
- 15 **Q Dollar Tree is the first time you've had 10:**
- 16 **responsibility for the entire location, correct? 10:**
- 17 **A Yes. 10:**
- 18 MR. COLE: Do you want some water or 10:
- 19 anything? 10:
- 20 THE WITNESS: Yes, please. 10:
- 21 BY MS. MCCLAIN: 10:
- 22 Q Can you tell me how much time you spend 10:
- 23 per week on the average in hiring people? 10:
- 24 A Not much time at all. 10:
- 25 Q How long does it take you to do an 10:

00080

1 Q Not enough help to do recovery at night? 10:

2 A Correct. 10:

3 Q Is there any other reason? 10:

4 A Staffing. That's -- 10:

5 Q Is there any other reason, other than 10:

6 what you believe to be inadequate help in 10:

7 recovery, that leaves your store messy? 10:

8 A I don't think so. 10:

9 Q You're currently working 45 hours a 10:

10 week, correct? 10:

11 A Yes. 10:

12 Q Have there been times when you have been 10:

13 a store manager when you have worked more hours 10:

14 than that? 10:

15 A Yes. 10:

16 Q But that has not been this year; is that 10:

17 right? 10:

18 A There's been times this year, yes. 10:

19 Q When did you absolutely decide not to 10:

20 work more than 45 hours a week? 10:

21 A When the lawsuit was filed. 10:

22 Q So from July 6 forward, you've worked 45 10:

23 hours only; is that right? 10:

24 A No. That's what -- that's what my goal 10:

25 has been. 10:

00081

1 Q Have you generally met that goal on a 10:

2 week-to-week basis? 10:

3 A I typically go over a little bit by my 10:

4 calculations, but I try to keep it at 45. 10:

5 Q When you say "a little bit," are you 10:

6 talking minutes? 10:

7 A Minutes per day. So... 10:

8 Q So you might work an hour more during 10:

9 the week; is that right? 10:

10 A An hour or two. Yeah. 10:

11 Q So the range would be from 45 to 47; is 10:

12 that right? 10:

13 A Since July, I would say that's fair. 10:

14 Q Do you have anywhere where you keep a 10:

15 record of the hours you actually work? 10:

16 A Aside from Compass, no. 10:

17 Q So if I asked you the hours you worked 10:

18 in the third week of April of 2006, you would 10:

19 look at Compass and you would think that's 10:

20 basically accurate, but not necessarily precisely 10:

21 so? 10:

22 A Yes. 10:

23 Q Are you getting what you need to get 10:

24 done as a store manager in 45 hours? 10:

25 A No. 10:

00092

- 1 A I don't know. 11:
- 2 Q Has a regional director ever visited 11:
- 3 your store? 11:
- 4 A Yes. 11:
- 5 Q Has there been more than one regional 11:
- 6 director who visited your store? 11:
- 7 A Yes. 11:
- 8 Q Has Ms. Hammond visited your store? 11:
- 9 A Yes. 11:
- 10 Q Has anyone else? 11:
- 11 A Matt Rodrigues. 11:
- 12 Q Have you now told me all of the regional 11:
- 13 directors that have visited your store that you 11:
- 14 recall? 11:
- 15 A Yes. 11:
- 16 Q Do you decide what job tasks will be 11:
- 17 performed by your assistant store managers? 11:
- 18 A Sometimes. 11:
- 19 Q And how do you divide up their 11:
- 20 responsibilities? 11:
- 21 A I make a list of what needs to be done 11:
- 22 and then divide it amongst the persons working. 11:
- 23 Q Can you give me an example of what would 11:
- 24 be on that list? 11:
- 25 A Marking -- markdowns, certain displays 11:

00093

- 1 that need built. 11:
- 2 Q Does anyone your store, aside from the 11:
- 3 assistant managers or the store manager, build 11:
- 4 displays? 11:
- 5 A Yes. 11:
- 6 Q Who else? 11:
- 7 A The freight crew, cashiers. 11:
- 8 Q Do they do so with direction from the 11:
- 9 management team? 11:
- 10 A Yes. 11:
- 11 Q Do you delegate any personnel functions 11:
- 12 to your assistant store managers? 11:
- 13 A I don't think so. 11:
- 14 Q So you do all the hiring, all of the 11:
- 15 counseling, all of the input of personnel 11:
- 16 information? 11:
- 17 A No. No. I have had assistants in the 11:
- 18 past do hiring. 11:
- 19 Q Do you input all of the new hire 11:
- 20 information into the human resources system 11:
- 21 yourself or do you have someone else do that? 11:
- 22 A For the regular employees, I do; for 11:
- 23 assistant managers, Rick or whichever DM is in 11:
- 24 charge. 11:
- 25 Q Is it correct, then, that you have not 11:

00094

1 A. Right. I try not to get too much above  
2 because I don't like the stockroom being -- you've  
3 got to balance it a little bit, but, yeah --

4 Q. Is the ordering more frequently when --  
5 does it occur more frequently when you're dealing  
6 with frozen foods?

7 A. It's all. Well, what do you mean "more  
8 frequently"?

9 Q. I thought you told me you ordered twice a  
10 week at 1868.

11 A. There's only designated times to order.  
12 They have to be done on a certain day. Frozen  
13 order I haven't mastered yet. It seems to  
14 disappear so sometimes I forget what I ordered  
15 because it's not always in front of you. So I try  
16 to do all that in one day. Other orders -- maybe  
17 five, ten minutes in each day I'll, you know, keep  
18 ordering. I order all the time.

19 Q. You can order in advance of actually  
20 sending the order; correct? You can fill in your  
21 order, but not --

22 A. Right.

23 Q. -- release it?

24 A. Actually, you just put in the send order,  
25 and then back at corporate, I guess, it just clicks



00095

1 in and it takes all that orders that you've put in

2 to that point and puts it in on your --

3 Q. Any time you feel you have some time to do

4 some ordering, you can go to the computer and put

5 in your orders; correct?

6 A. Right. Uh-huh. So if I feel like we need

7 something, I can go in and quickly order it and I

8 can be back to doing whatever.

9 Q. And is it correct then that you are

10 ordering sporadically throughout the week? You're

11 going back to your computer and placing orders?

12 A. Here and there, yeah. I mostly do it once

13 a day if I feel like it needs it. Um, in store

14 2262 I'm at right now, it's very full, um, so

15 ordering isn't --

16 Q. When you were doing ordering in 1868,

17 would you walk the store before you placed an order

18 just to see what had been selling?

19 A. Well, I was always walking around, so I

20 always just checked to see. Running the register,

21 you see what goes through all the time. So that's

22 how I -- I would --

23 Q. Did we not identify one other reason why

24 you might be on a register, and that is for

25 training? Do you train people on registers?

00096

1 computer system when an evaluation is due? 11:

2 A Yes. 11:

3 Q So the computer will tell you in some 11:

4 fashion that a 30-day evaluation is due; is that 11:

5 right? 11:

6 A Yes. 11:

7 Q How does that appear to you? 11:

8 A It just shows up on the screen. 11:

9 Q You fill in enough blanks to clear the 11:

10 evaluation; is that right? 11:

11 A Correct. 11:

12 Q Do you ever print out the evaluation and 11:

13 discuss it with the hourly associate? 11:

14 A No. 11:

15 Q Why not? 11:

16 A It's not something I was ever told I was 11:

17 supposed to do. 11:

18 Q Do you think it would be helpful if you 11:

19 provided such feedback to the hourly associates? 11:

20 MR. COLE: Objection. Calls for speculation. 11:

21 BY MS. MCCLAIN: 11:

22 Q Do you think it would be helpful to 11:

23 their job performance? 11:

24 MR. COLE: Same objection. If you can answer 11:

25 it, go ahead. 11:

00097

- 1 THE WITNESS: I don't know. 11:
- 2 BY MS. MCCLAIN: 11:
- 3 Q Has that thought ever occurred to you 11:
- 4 that doing these evaluations with the hourly 11:
- 5 associates would be helpful to improve their job 11:
- 6 performance? 11:
- 7 A Yes. 11:
- 8 Q Still you haven't done it? 11:
- 9 A Correct. 11:
- 10 Q Why not? 11:
- 11 A Because I'm not familiar with the 11:
- 12 computer program, how to do it correctly. 11:
- 13 Q Have you ever asked anyone for help? 11:
- 14 A Yes. 11:
- 15 Q Who have you asked? 11:
- 16 A Rick. 11:
- 17 Q He's not given you help? 11:
- 18 A No. 11:
- 19 Q Do you provide feedback to the hourly 11:
- 20 associates based upon your observation of how 11:
- 21 they are doing the job? 11:
- 22 A Yes. 11:
- 23 Q How do you do that? 11:
- 24 A Just by simply telling them, hey, you 11:
- 25 did a good job today or this isn't so good. 11:

00098

1 Q Do you call them into the office for 11:

2 that purpose? 11:

3 A Sometimes; sometimes it's on the sales 11:

4 floor. 11:

5 Q You delegate markdown functions to your 11:

6 assistant store managers; is that right? 11:

7 A Sometimes. 11:

8 Q Do you sometimes do the markdown 11:

9 functions yourself? 11:

10 A Yes. 11:

11 Q What does that consist of? How do you 11:

12 do that? 11:

13 A Taking the damaged products and scanning 11:

14 them with the prism gun. 11:

15 Q You told me that sales have increased 11:

16 since you've been the store manager at 2939? 11:

17 A Yes. 11:

18 Q Has that been due to anything that you 11:

19 believe you have done? 11:

20 A I just believe it's more word of mouth. 11:

21 Our customer count has increased, therefore our 11:

22 sales have increased. 11:

23 Q And have you done anything to, in your 11:

24 judgment, to increase the word of mouth? 11:

25 A I'm not sure. 11:

00099

1 Q So you don't take responsibility or 11:

2 credit for the increase in customers? 11:

3 A No, I don't. 11:

4 Q What is your annual sales volume at 11:

5 2939? 11:

6 A A little over two million. 11:

7 Q What was it the year you started? 11:

8 A I believe the first year was 1.9 11:

9 million. 11:

10 Q Is it correct that your bonus as a store 11:

11 manager is based exclusively on sales-related 11:

12 factors? 11:

13 A Yes. 11:

14 Q Have you gotten bonuses? 11:

15 A Yes. 11:

16 MS. MCCLAIN: May I have this marked as next 11:

17 in order, please? 11:

18 (Exhibit 6 was marked for identification.) 11:

19 BY MS. MCCLAIN: 11:

20 Q Do you recognize this document, 11:

21 Mr. Runnings, as the store manager bonus plan 11:

22 currently in effect? 11:

23 A Yes. 11:

24 Q Is it correct that recently there was a 11:

25 change in the bonus plan to add a margin 11:

00100

- 1 component? 11:
- 2 A Yes. 11:
- 3 Q Have you been paying attention to the 11:
- 4 margins of the items you sell in your store? 11:
- 5 A I don't know the margins on the items. 11:
- 6 Q You don't have that in your ordering 11:
- 7 scorecard information? 11:
- 8 A No. 11:
- 9 MS. MCCLAIN: May I have this marked as next 11:
- 10 in order, please? 11:
- 11 (Exhibit 7 was marked for identification.) 11:
- 12 BY MS. MCCLAIN: 11:
- 13 Q Do you have a playbook at 2939? 11:
- 14 A Yes. 11:
- 15 Q Do you keep your playbook up to date? 11:
- 16 A I try to. 11:
- 17 Q Do you use your playbook? 11:
- 18 A Not typically, no. 11:
- 19 Q Can you describe to me what you did last 11:
- 20 week? What did you do on Monday last week? 11:
- 21 A I don't remember right now. 11:
- 22 Q Do you have a typical Monday routine? 11:
- 23 A I have a routine I try to follow. 11:
- 24 Q What is that? 11:
- 25 A Monday is usually what Dollar Tree 11:

00101

- 1 considers the office day. That's where we fill 11:
- 2 our playbook. 11:
- 3 Q Do you do your ordering on Monday? 11:
- 4 A No. 11:
- 5 Q Do you do any planning for your ordering 11:
- 6 on Monday? 11:
- 7 A I take that back. I do write the frozen 11:
- 8 order on Monday. 11:
- 9 Q How many hours do you typically spend in 11:
- 10 the office on Monday, on your office day? 11:
- 11 A I would say maybe two, three hours tops. 11:
- 12 Q Do you spend time in the office 11:
- 13 throughout the rest of the week? 11:
- 14 A Yeah. Yes. I'm sorry. 11:
- 15 Q Can you quantify for me how many hours 11:
- 16 you would spend on the next day of the week that 11:
- 17 you worked, aside from Monday? 11:
- 18 A I would say probably around two hours a 11:
- 19 day. 11:
- 20 Q So you think two hours a day is about 11:
- 21 right for all days except Monday, and that's two 11:
- 22 to three hours; is that right? 11:
- 23 A No. There's days that it's far less. 11:
- 24 Q Are there days when it's more? 11:
- 25 A Only if Rick is there. 11:

00102

- 1 Q Why is that? 11:
- 2 A He may be going over paperwork with me. 11:
- 3 Q What do you do when you're in the 11:
- 4 office, what kinds of things do you work on? 11:
- 5 A The order, scheduling, cashing out the 11:
- 6 cashiers, doing the deposits. That's about it. 11:
- 7 Q Do you do any planning? Do you develop 11:
- 8 a master list for the week? 11:
- 9 A I usually do a to-do list. But I do 11:
- 10 that daily. 11:
- 11 Q Do you do that in the beginning of the 11:
- 12 day usually? 11:
- 13 A Yes. 11:
- 14 Q Do you keep your to-do lists? 11:
- 15 A Yes. 11:
- 16 Q Do you have them somewhere? 11:
- 17 A Yes. They are in my clipboard in the 11:
- 18 office. 11:
- 19 Q Is your playbook in the office as well? 11:
- 20 A Yes. 11:
- 21 Q Could you make copies of those for me, 11:
- 22 please? 11:
- 23 A Of? 11:
- 24 Q The playbook and clipboard -- and your 11:
- 25 clipboard to-do list? 11:



00106

- 1 Q Do they give you suggested pictures for 11:
- 2 all 80 end caps? 11:
- 3 A No. 11:
- 4 Q Approximately, how many do you have to 11:
- 5 develop yourself without any suggestions? 11:
- 6 A I would approximate 75 percent. 11:
- 7 Q Do you change your end caps regularly? 11:
- 8 A Yes. 11:
- 9 Q Can you give me an example of an end cap 11:
- 10 you've just done? 11:
- 11 A Me personally or in the store? 11:
- 12 Q Yeah. Or you developed and asked 11:
- 13 someone else to do, but one that you designed. 11:
- 14 A No. 11:
- 15 Q You don't have a favorite end cap in 11:
- 16 mind? 11:
- 17 A No. 11:
- 18 Q Do you have front windows? 11:
- 19 A Yes. 11:
- 20 Q Do you normally have a front window 11:
- 21 display? 11:
- 22 A No. 11:
- 23 Q Why not? 11:
- 24 A We have shopping carts in our front 11:
- 25 window. 11:

00109

- 1 Q So you use it as a guideline for the 11:  
2 displays? 11:  
3 A Yes. 11:  
4 Q And as I understood your testimony 11:  
5 before, you don't always follow the guidelines, 11:  
6 correct? 11:  
7 A Correct. 11:  
8 Q Is there a reason for that? Do you 11:  
9 think another display is better or do you not 11:  
10 have the product or -- 11:  
11 A It's usually lack of product. 11:  
12 Q So you have to substitute product? 11:  
13 A Yes. 11:  
14 Q Do you keep a weekly business summary in 11:  
15 your playbook? 11:  
16 A Occasionally. 11:  
17 Q And why do you only do so occasionally? 11:  
18 A I only have access to that through 11:  
19 Rick. And it's not something that I'm given each 11:  
20 week. So when I have it, it's in there. 11:  
21 Q Do you review it when you have it? 11:  
22 A Yes. 11:  
23 Q And does it assist you in any way? 11:  
24 A No. 11:  
25 Q It tells you what your sales have been. 11:

00117

- 1 Q And shows those subdepartments by 11:
- 2 margin? 11:
- 3 A I'm not sure. 11:
- 4 Q Does it show them by the amount sold? 11:
- 5 A It shows the dollars sold. 11:
- 6 Q Do you look at that to see what has been 11:
- 7 selling in your store? 11:
- 8 A No. 11:
- 9 Q Why not? 11:
- 10 A I don't order it, so it doesn't really 11:
- 11 affect me in my opinion. 11:
- 12 Q You don't order anything yourself? 11:
- 13 A I order very little. 11:
- 14 Q One percent? 11:
- 15 A I don't know the number. 11:
- 16 Q Do you use the topic 200 SKUs when 11:
- 17 planning your merchandising or ordering? 11:
- 18 A I look at it, yes. 11:
- 19 Q What do you do with it? 11:
- 20 A It's usually just interesting to see 11:
- 21 what your best selling items are. 11:
- 22 Q And if you have a best selling item, do 11:
- 23 you try to make sure that item is always stocked, 11:
- 24 always on the floor? 11:
- 25 A No. No. If we have it, yes. 11:

00118

- 1 Q If you have a best selling item, do you 11:  
2 try to incorporate it into a display? 11:  
3 A Not usually. No. 11:  
4 Q Why not? 11:  
5 A Most of it has a home place where it's 11:  
6 supposed to be. 11:  
7 Q You can put anything you want on 11:  
8 displays, can't you? 11:  
9 A Yes. 11:  
10 Q Does your playbook have a top ten by 11:  
11 department? 11:  
12 A Sometimes. 11:  
13 Q You don't always get that document? 11:  
14 A Correct. 11:  
15 Q That's the top ten items sold company 11:  
16 wide, correct? 11:  
17 A I believe so. Yes. 11:  
18 Q And do you find that information of 11:  
19 assistance to you when you get it? 11:  
20 A It's interesting to look at. Yes. 11:  
21 Q Do you analyze whether your top ten 11:  
22 selling items correspond with what the company's 11:  
23 top ten selling items are? 11:  
24 A Not usually. No. 11:  
25 Q Has anyone ever told you that that would 11:

00119

1 be a useful exercise? 11:

2 A I don't think so. 11:

3 Q Does your playbook have pull and holds? 11:

4 A Yes. 11:

5 Q And what are they? 11:

6 A Items that have to be pulled off the 11:

7 sales floor. 11:

8 Q For a variety of reasons; is that right? 11:

9 A Yes. 11:

10 Q Either because they are damaged or -- 11:

11 A We don't know the reasons. We are not 11:

12 told. 11:

13 Q You're just told pull and hold? 11:

14 A Yes. 11:

15 Q And the things that you pull off the 11:

16 sales floor have to be recorded as being out of 11:

17 inventory, correct? 11:

18 A Sometimes. 11:

19 Q What is the distinction? 11:

20 A A pull and hold, we have to hold it 11:

21 until they tell us what to do with it. If they 11:

22 tell us to destroy it, then it's removed from the 11:

23 inventory. 11:

24 Q And do you supervise that process? 11:

25 A Usually. 11:

00123

- 1 A Separate form. 11:
- 2 Q What is shown on the register order 11:
- 3 form? 11:
- 4 A It's a register audit form. It's for 11:
- 5 auditing cashiers during their shift to check the 11:
- 6 accuracy of their till. 11:
- 7 Q So that's essentially a counting of the 11:
- 8 till, is that right, compared to what's on the 11:
- 9 register in the transaction recording? 11:
- 10 A That's -- 11:
- 11 Q How do you do a register audit? 11:
- 12 A Okay. Well, we have a machine in the 11:
- 13 office that weighs money and we take that machine 11:
- 14 out to the register and we count the cashier's 11:
- 15 cash at the register, run a report and match the 11:
- 16 two together. 11:
- 17 Q When you say "we," who does that? 11:
- 18 A Myself and assistant managers. 11:
- 19 Q Is that a function that's restricted to 11:
- 20 the management team? 11:
- 21 A Yes. 11:
- 22 MS. MCCLAIN: May I have this marked as next 11:
- 23 in order, please? 11:
- 24 This is in your packet. It's 1283. 11:
- 25 (Exhibit 9 was marked for identification.) 11:

00124

- 1 BY MS. MCCLAIN: 11:
- 2 Q Have you ever seen a printout of your 11:
- 3 ordering at store 2939? 11:
- 4 A I don't think so. No. 11:
- 5 Q And let's turn to the page marked 1286. 11:
- 6 Actually, let's go to 2007. So would you 11:
- 7 continue on to the last page? 11:
- 8 A (Witness complies.) 11:
- 9 Q How often do you normally order? 11:
- 10 A Once a week. 11:
- 11 Q Is there a reason for that, that you 11:
- 12 don't order more often than that? 11:
- 13 A No. 11:
- 14 Q Is that your decision to order just once 11:
- 15 a week? 11:
- 16 A Yes. 11:
- 17 Q You could order twice a week? 11:
- 18 A Yes. 11:
- 19 Q Why do you think once a week is 11:
- 20 appropriate? 11:
- 21 A That's all it takes in my opinion. 11:
- 22 Q And do you do that on a particular day 11:
- 23 of the week? 11:
- 24 A No. It varies. 11:
- 25 Q What does it vary, depending upon? 11:

00128

- 1 those two weeks? 11:
- 2 A Yes. 11:
- 3 Q How does that happen? 11:
- 4 A I don't know. 11:
- 5 Q Do you know that there are times when 11:
- 6 you place a very big order and times when you 11:
- 7 place quite a small order? 11:
- 8 A Yes. 11:
- 9 Q And why is that? 11:
- 10 A Sometimes the store may look a little 11:
- 11 low, and I'll actually go in and order 11:
- 12 something. Rick may have ordered something for 11:
- 13 me. I don't know. 11:
- 14 Q How do you decide that the store looks 11:
- 15 low? 11:
- 16 A Just by the presentation overall. 11:
- 17 Q So you walk around and look at it and 11:
- 18 think you need more merchandise; is that right? 11:
- 19 A Yes. 11:
- 20 Q Do you do that on a regular basis, walk 11:
- 21 your store? 11:
- 22 A I try to. 11:
- 23 Q For what purposes do you do that? 11:
- 24 A To see what sections I need to stock. 11:
- 25 Q And once you decide which sections you 11:



00129

1 need to stock, what do you do? How do you get 11:

2 them stocked? 11:

3 A I either do it myself or I delegate it 11:

4 out to my freight crew. 11:

5 Q Is that your choice? 11:

6 A What's that? 11:

7 Q Whether you do it yourself or delegate 11:

8 it to your freight crew? 11:

9 A Yes. 11:

10 MS. MCCLAIN: May I have this as next in 11:

11 order, please? 11:

12 This is also in your packet, 1237. 11:

13 (Exhibit 10 was marked for identification.) 11:

14 BY MS. MCCLAIN: 11:

15 Q Have you ever seen a report such as 11:

16 this? 11:

17 A No. 11:

18 Q And this report shows orders placed by 11:

19 you as a percentage to the total order. Some 11:

20 items are automatically ordered, correct? 11:

21 A Most items, yes. 11:

22 Q And what do you call that system? 11:

23 A SLIK. 11:

24 Q And that's essentially a point of sale 11:

25 ordering system where the information of goods 11:

00132

1 A I usually only order the food department 12:

2 and drinks. 12:

3 Q So when you place an order yourself, it 12:

4 is normally either for food or drinks; is that 12:

5 right? 12:

6 A That's usually right, yes. 12:

7 Q Is there any exception to that 12:

8 currently? 12:

9 A Yes. 12:

10 Q What's the exception? 12:

11 A Occasionally I'll pop into another 12:

12 department and order something. 12:

13 Q Under what circumstances would you do 12:

14 that? Can you give me an example? 12:

15 A Yeah. If Rick or somebody sends out an 12:

16 e-mail, you know, hey, this item is in the order 12:

17 book, order it. Then I can go into that 12:

18 department and order it. And then I also order 12:

19 store supplies. 12:

20 Q Do you ever look at the order book to 12:

21 see what items are available or do you wait for 12:

22 Mr. Tellstrom to tell you that? 12:

23 A Not recently. No. 12:

24 Q Why not? 12:

25 A Because so much of it is automatically 12:

00136

- 1 A By writing an order. 12:
- 2 Q You went from department to department 12:
- 3 and saw what you were low on and wrote an order? 12:
- 4 A I don't remember. This is, like, three 12:
- 5 years ago. 12:
- 6 MS. MCCLAIN: May I have this marked as next 12:
- 7 in order, please? 12:
- 8 (Exhibit 11 was marked for identification.) 12:
- 9 BY MS. MCCLAIN: 12:
- 10 Q Do you receive quick start instruction 12:
- 11 for store manager responsibilities? 12:
- 12 A I don't know what that is. 12:
- 13 **Q Is there training material on the 12:**
- 14 **computer that tells you how to order or gives you 12:**
- 15 **suggestions with respect to ordering? 12:**
- 16 **A I'm not sure. 12:**
- 17 Q Do you have an order book? 12:
- 18 A Yes. 12:
- 19 Q Do you use the order book? 12:
- 20 A It's automatically on the screen when 12:
- 21 you write your order. 12:
- 22 Q So we are talking about a computer order 12:
- 23 book, correct? 12:
- 24 A Correct. 12:
- 25 Q Do you use that function? 12:

00137

- 1 A Yes. 12:
- 2 Q And does that order book have a notation 12:
- 3 of high margin items? 12:
- 4 A I believe so. 12:
- 5 Q And is that by department or by item? 12:
- 6 A By item. 12:
- 7 Q So when you told me earlier that the 12:
- 8 margin information by item was not available to 12:
- 9 you, that's not accurate, correct? 12:
- 10 A That is correct. 12:
- 11 Q It's available to you on the order -- 12:
- 12 A Well, an icon telling me that something 12:
- 13 has a high margin is not -- 12:
- 14 Q As opposed -- 12:
- 15 A -- doesn't tell me that. I'm sorry. 12:
- 16 MR. COLE: Go ahead. Finish your answer. 12:
- 17 BY MS. MCCLAIN: 12:
- 18 Q -- as opposed to the percentage, is what 12:
- 19 you meant, right? It doesn't have the specific 12:
- 20 percentage? 12:
- 21 A Correct. 12:
- 22 Q But it does tell you that it's a high 12:
- 23 margin item? 12:
- 24 A Yes. 12:
- 25 MR. COLE: You were fine. 12:

00144

1 A I couldn't tell you. There's weeks and 12:

2 weeks where I don't train anybody. 12:

3 Q Then recently you got a new assistant 12:

4 store manager, correct? 12:

5 A Correct. 12:

6 Q Have you been training that person? 12:

7 A No. 12:

8 Q Do you intend to train that person? 12:

9 A Yes. He has not been working with me at 12:  
10 the moment. 12:

11 Q Because of these hours that you're 12:  
12 working? 12:

13 A He's working two jobs. He's still 12:

14 finishing his two weeks at his other job. So, 12:

15 therefore, our schedules are not coinciding 12:  
16 except for briefly. 12:

17 Q When your schedules coincide, do you 12:  
18 intend to train him? 12:

19 A Yes. 12:

20 Q And how do you go about doing that? 12:

21 A Just showing them the different jobs 12:

22 that they are responsible for and teaching them 12:  
23 how to do it. 12:

24 Q How do you teach somebody to stock? 12:

25 A I take them with me and go stock. 12:

00145

1 Q You show them? You have them with you? 12:

2 A Yes. 12:

3 Q So there are times when you're stocking 12:

4 when you're actually training as well, correct? 12:

5 A Yes. 12:

6 Q Are there times when you're running the 12:

7 cash register that you're actually training as 12:

8 well? 12:

9 A No. 12:

10 Q Do you, as a rule, run a cash register? 12:

11 A Yes. 12:

12 Q Do you do that from time to time? 12:

13 A Yes. 12:

14 Q Can you estimate for me the percentage 12:

15 of your time you spent on the cash register last 12:

16 week? 12:

17 A I don't know. 12:

18 Q Can you give me a clue? Ten percent, 12:

19 one percent? 12:

20 A I don't know. 12:

21 Q It's not possible? 12:

22 A Not without all the numbers in front of 12:

23 me. 12:

24 Q Would you say last week you were on the 12:

25 cash register more or stocking more, can you draw 12:

00148

- 1 BY MS. MCCLAIN: 12:
- 2 Q You told me that you have various 12:
- 3 responsibilities for inputting personnel 12:
- 4 information, correct? 12:
- 5 A Yes. 12:
- 6 Q Do you have responsibility for inputting 12:
- 7 information when an associate leaves the store? 12:
- 8 A Yes. 12:
- 9 Q Does page 50 explain the various reasons 12:
- 10 that you can input when that occurs? 12:
- 11 A I've never seen the right-hand columns 12:
- 12 before; just the columns on the left. 12:
- 13 Q Do you use the columns on the left to 12:
- 14 input information? 12:
- 15 A Yes. 12:
- 16 Q So if someone has been terminated for 12:
- 17 unacceptable work performance, you would use that 12:
- 18 -- 12:
- 19 A Yes. 12:
- 20 Q -- explanation? 12:
- 21 How many people have you decided to fire 12:
- 22 since you've become store manager at 2939? 12:
- 23 A I don't know. 12:
- 24 Q Can you give me an estimate? 12:
- 25 A I don't know. 12:

00149

- 1 Q More than ten? 12:
- 2 A Yes. Probably. 12:
- 3 Q More than 20? 12:
- 4 A I don't know. 12:
- 5 Q So the best you can say with reasonable 12:
- 6 certainty is more than ten; is that right? 12:
- 7 A I'm not even sure about that, honestly. 12:
- 8 Q Can you give me an example of someone 12:
- 9 you've decide to discharge? What were the 12:
- 10 underlying circumstances? 12:
- 11 A Only one comes to mind. 12:
- 12 Q Can you tell me the time frame? 12:
- 13 A Close to the beginning of this year. 12:
- 14 Q About December of last year? 12:
- 15 A I'm not sure. 12:
- 16 Q Or potentially January, February of this 12:
- 17 year? 12:
- 18 A I think so. 12:
- 19 Q Who was the individual? 12:
- 20 A Jacqueline. 12:
- 21 Q Do you recall Jacqueline's last name? 12:
- 22 A Leal, L-E-A-L. 12:
- 23 Q What was Jaqueline's position? 12:
- 24 A At the time, I believe freight. 12:
- 25 Q She was a freight processor? 12:



00150

- 1 A Yes. 12:
- 2 Q Or a freight manager? 12:
- 3 A A stocker. 12:
- 4 Q And what was the reason that you decided 12:
- 5 Jacqueline should be terminated? 12:
- 6 A Poor work performance. 12:
- 7 Q How did you evaluate that? 12:
- 8 A Just by keeping track of what she did, 12:
- 9 carton stocked. The freight manager keeps a 12:
- 10 record of how much cartons each stocker does, and 12:
- 11 she was working below expectations. 12:
- 12 Q Did you speak with her about that before 12:
- 13 you terminated? 12:
- 14 A Yes. 12:
- 15 Q Did you try to work with her to improve 12:
- 16 her performance? 12:
- 17 A Yes. 12:
- 18 Q How did you do that? 12:
- 19 A Multiple times talking with her in 12:
- 20 person, so -- I have a question for him regarding 12:
- 21 her. I don't know if I'm allowed to -- what I'm 12:
- 22 allowed to say here. 12:
- 23 MR. COLE: Okay. 12:
- 24 THE WITNESS: She's involved in a lawsuit 12:
- 25 against Dollar Tree as well. 12:

00160

- 1 Q Yes. 12:
- 2 A Yes. Absolutely. 12:
- 3 Q How do you do that? 12:
- 4 A You just teach them. Thank everybody. 12:
- 5 Say hi to everybody. 12:
- 6 Q So you establish that as how you wanted 12:
- 7 customers treated in your store; is that right? 12:
- 8 A Yes. 12:
- 9 **Q Do you observe the associates to make 12:**
- 10 **sure that they are following your directions? 12:**
- 11 **A Yes. 12:**
- 12 Q You say in this counseling form to 12:
- 13 Ms. Massey that she clocked out early. How do 12:
- 14 you know that? 12:
- 15 A From her time punch. 12:
- 16 Q So you went and looked at when she left; 12:
- 17 is that right? 12:
- 18 A Yes. 12:
- 19 Q As part of your review of this 12:
- 20 situation, you went and looked at her time punch? 12:
- 21 A Yes. 12:
- 22 Q Was that a problem you had with her in 12:
- 23 the past? 12:
- 24 A I don't remember. 12:
- 25 Q Did you sit down with Ms. Massey and 12:

00167

- 1 night before? 12:
- 2 A For the office stuff, it's just when I 12:
- 3 first walk into the office. So everything is 12:
- 4 hanging on the wall. So it's just a quick glance 12:
- 5 to see if it was done or not. 12:
- 6 Q So you make sure that the audit, the 12:
- 7 till audit has been completed, that the deposit 12:
- 8 form has been completed? 12:
- 9 A Yes. 12:
- 10 Q What else? 12:
- 11 A The numbers from the night before. 12:
- 12 Q The sales numbers? 12:
- 13 A Yes. Off the top of my head, that's all 12:
- 14 I remember. 12:
- 15 Q And that's something you look at every 12:
- 16 morning? 12:
- 17 A Yes. 12:
- 18 MS. MCCLAIN: May I have this marked next in 12:
- 19 order, please? 12:
- 20 (Exhibit 18 was marked for identification.) 12:
- 21 BY MS. MCCLAIN: 12:
- 22 Q Is this document in your handwriting, 12:
- 23 Mr. Runnings? 12:
- 24 A Yes, it is. 12:
- 25 Q Mr. Tellstrom also signed this document? 12:

00186

1 MS. MCCLAIN: May I have this marked next in 01:

2 order, please? 01:

3 (Exhibit 25 was marked for identification.) 01:

4 BY MS. MCCLAIN: 01:

5 Q Is this a corrective action form that 01:

6 you issued in September of 2006? 01:

7 A Yes. 01:

8 Q Did the employee actually receive this 01:

9 form? 01:

10 A No. 01:

11 Q If an associate hasn't signed the form, 01:

12 that means you decided for some reason not to 01:

13 give it to the associate; is that right? 01:

14 A Yes. 01:

15 Q Do you know why you decided not to give 01:

16 this form to Ms. Burns? 01:

17 A No. 01:

18 Q Your description of the reason for the 01:

19 corrective action says that the employee's had 01:

20 four write-ups for over and shorts. And that 01:

21 company policy is to terminate after three write- 01:

22 ups. Is that an accurate reflection of your 01:

23 understanding of company policy? 01:

24 A At the time, yes. 01:

25 Q Has that changed? 01:

00187

- 1 A Yes. 01:
- 2 Q What has the change been? 01:
- 3 A My understanding now is that it's more 01:
- 4 to our discretion. 01:
- 5 Q At the time you wrote this, did you 01:
- 6 think it was to your discretion? 01:
- 7 A I don't remember. 01:
- 8 Q Do you know why you decided not to 01:
- 9 terminate? 01:
- 10 A No. 01:
- 11 Q Do you know why you decided not to give 01:
- 12 a corrective action? 01:
- 13 A No. 01:
- 14 Q Were those your decisions? 01:
- 15 A Probably. 01:
- 16 Q Why do you say "probably"? 01:
- 17 A Yes. 01:
- 18 MS. MCCLAIN: May I have this marked next in 01:
- 19 order, please? 01:
- 20 (Exhibit 26 was marked for identification.) 01:
- 21 BY MS. MCCLAIN: 01:
- 22 Q Is this a corrective action form in your 01:
- 23 handwriting? 01:
- 24 A Yes. 01:
- 25 Q Did you make the decision to issue this 01:

00188

- 1 corrective action? 01:
- 2 A I believe Rick did. 01:
- 3 Q How do you know that? 01:
- 4 A Because he's the one who has access to 01:
- 5 the transaction void report. 01:
- 6 Q Is it correct that you don't have access 01:
- 7 to any report that shows transaction voids? 01:
- 8 A I think I do, yes. 01:
- 9 Q But Mr. Tellstrom happened to notice 01:
- 10 this one? 01:
- 11 A Yes. 01:
- 12 Q Isn't it one of your responsibilities to 01:
- 13 find out if a transaction void occurs? 01:
- 14 A Yes. 01:
- 15 Q How do you do that? 01:
- 16 A I believe it's on the cashiers 01:
- 17 statistics. 01:
- 18 Q Your recollection is that in this 01:
- 19 situation it was Mr. Tellstrom who noticed that 01:
- 20 first? 01:
- 21 A I can't be sure. No. 01:
- 22 Q Do you have any current recollection of 01:
- 23 who made the decision to issue this warning? 01:
- 24 A Yes. That was Rick. 01:
- 25 Q But you can't tell me why or what the 01:

00189

- 1 underlying circumstances were; is that right? 01:
- 2 A No. 01:
- 3 Q Did you agree? 01:
- 4 A Yes. 01:
- 5 Q Did Ms. Segmiller engage in another 01:
- 6 transaction void, to your knowledge? 01:
- 7 A No. 01:
- 8 MS. MCCLAIN: May I have this marked as next 01:
- 9 in order, please? 01:
- 10 (Exhibit 27 was marked for identification.) 01:
- 11 BY MS. MCCLAIN: 01:
- 12 Q Is this corrective action in your 01:
- 13 handwriting, Mr. Runnings? 01:
- 14 A Yes. 01:
- 15 Q Is that your signature? 01:
- 16 A Yes. 01:
- 17 Q Your signature appears on top of the 01:
- 18 line saying, "Signature of supervisor completing 01:
- 19 this form," correct? 01:
- 20 A Yes. 01:
- 21 Q Were you Ms. Burton's supervisor at the 01:
- 22 time you completed this form? 01:
- 23 A Yes. 01:
- 24 Q Are you the supervisor of all employees 01:
- 25 who work in your store? 01:

00209

- 1 online. Did I hear that correctly? 02:
- 2 A An application? 02:
- 3 Q I mean a performance evaluation. 02:
- 4 A Yes. 02:
- 5 Q You don't have paper copies of 02:
- 6 performance evaluations? 02:
- 7 A Not that I know of. No. 02:
- 8 Q You're not able to print out paper 02:
- 9 copies of performance evaluations? 02:
- 10 A I'm not sure. 02:
- 11 Q In any event, you don't recall your ever 02:
- 12 completing a paper copy of a performance 02:
- 13 evaluation; is that right? 02:
- 14 A Not that I recall. No. 02:
- 15 Q Do you have an understanding that the 02:
- 16 way employees in your store get raises is through 02:
- 17 the performance evaluations being completed? 02:
- 18 A No. 02:
- 19 Q Have the employees in your store gotten 02:
- 20 raises since you've been the store manager? 02:
- 21 A Some have, yes. 02:
- 22 Q How has that happened? 02:
- 23 A I send an e-mail to Rick saying that 02:
- 24 this person has been here a year, it's time for 02:
- 25 their raise. They deserve it. And then Rick 02:



00210

1 takes care of it from there. 02:

2 Q When you fill out enough on the 02:

3 performance evaluation online to clear it, can 02:

4 you tell me, specifically, what you fill out? 02:

5 A No, I can't. 02:

6 Q Is it the employee's name? Can you give 02:

7 me any detail with respect to that? 02:

8 A You click on their name, and then some 02:

9 sort of weird little box pops up on the side that 02:

10 has a whole bunch of stuff that I don't know what 02:

11 it is. And -- and I don't recall. There's 02:

12 something you can check and then it deletes it. 02:

13 Q Have employees in your store complained 02:

14 about not getting raises to you? 02:

15 A Over the last -- since the last minimum 02:

16 wage change, yes. 02:

17 Q Since January of this year? 02:

18 A I can't remember when the last change. 02:

19 I thought it was in June. 02:

20 Q What has their complaint been? 02:

21 A The complaint has been that when minimum 02:

22 wage changed, everybody who has been hired since 02:

23 then has been hired at a higher wage than they 02:

24 were, even though they have been with the company 02:

25 longer. 02:

00213

- 1 I think. 02:
- 2 Q You said earlier that you order supplies 02:
- 3 for your store; is that right? 02:
- 4 A Yes. 02:
- 5 Q Do you order them as an expense order? 02:
- 6 A I'm sorry? 02:
- 7 Q Do you recognize the column that says, 02:
- 8 "Order Type, expense." Is that how you order 02:
- 9 supplies? 02:
- 10 A No. It's just under a category, store 02:
- 11 supplies, on the ordering book. 02:
- 12 Q You make the decision entirely as to 02:
- 13 what to order as supplies; is that right? 02:
- 14 A Yes. 02:
- 15 Q Do you have any sort of routine as to 02:
- 16 how often you order supplies? 02:
- 17 A As needed. 02:
- 18 Q So you wouldn't expect to find any sort 02:
- 19 of regular pattern necessarily as to when you 02:
- 20 order; is that right? 02:
- 21 A As to when I order? 02:
- 22 Q Yes. That is, not every week or every 02:
- 23 two weeks? 02:
- 24 A It's usually every week, but there are 02:
- 25 weeks that nothing gets ordered. 02:

00233

- 1 Do you agree that, A, that is Dollar 03:
- 2 Tree's policy? 03:
- 3 A Yes. 03:
- 4 Q Do you agree, B, that it is store 03:
- 5 management's responsibility to monitor compliance 03:
- 6 for that policy? 03:
- 7 A Yes. 03:
- 8 MS. MCCLAIN: May I have this marked next in 03:
- 9 order, please? 03:
- 10 (Exhibit 39 was marked for identification.) 03:
- 11 BY MS. MCCLAIN: 03:
- 12 Q Have you seen this policy and procedure 03:
- 13 with respect to editing and approving time 03:
- 14 records before? 03:
- 15 A I don't believe so. No. 03:
- 16 Q Looking at the information under policy, 03:
- 17 do you agree that it is Dollar Tree's policy that 03:
- 18 hourly associates must record all time worked 03:
- 19 electronically by clocking in and out on the time 03:
- 20 clock? 03:
- 21 A Yes. 03:
- 22 Q Do you agree that it is Dollar Tree's 03:
- 23 policy that managers must review time sheets on a 03:
- 24 daily basis? 03:
- 25 A Yes. 03:

00242

- 1 A When did he call or when did he stop? 03:
- 2 Q When did he stop? Thank you. 03:
- 3 A Probably a few months ago. 03:
- 4 Q When you receive a shipment of freight, 03:
- 5 do you also get a worksheet which shows what 03:
- 6 freight you're getting? 03:
- 7 A Yes. 03:
- 8 Q Do you regularly review that worksheet? 03:
- 9 A Yes. 03:
- 10 Q Do you view that as one of your 03:
- 11 responsibilities? 03:
- 12 A Yes. 03:
- 13 Q Does anyone else do that? 03:
- 14 A The freight manager. 03:
- 15 Q Do you both do it usually or do you 03:
- 16 delegate to the freight manager sometimes? 03:
- 17 A At separate times, we both review it. 03:
- 18 At separate times, we both review it. 03:
- 19 Q So this is a responsibility that you 03:
- 20 always keep, you don't delegate entirely to the 03:
- 21 freight manager; is that right? 03:
- 22 A Yes. Yes. 03:
- 23 Q Why do you review the order worksheet? 03:
- 24 A Just to get an idea of the merchandise 03:
- 25 that's coming in. 03:

00243

- 1 Q Do you give instructions to the freight 03:
- 2 manager as to how he should handle that 03:
- 3 merchandise based upon your review of the order 03:
- 4 worksheet? 03:
- 5 A Some of the merchandise. 03:
- 6 Q Do you make a plan as to where some of 03:
- 7 the merchandise should go? 03:
- 8 A I usually leave that up to the freight 03:
- 9 manager. 03:
- 10 Q When you say you give instruction as to 03:
- 11 some of the merchandise, what are you referring 03:
- 12 to? 03:
- 13 A If something different is coming in that 03:
- 14 we don't normally carry, I may leave him a note 03:
- 15 of where I want it. Occasionally, an end cap, 03:
- 16 where I would like an end cap built. So stuff 03:
- 17 like that. 03:
- 18 Is it possible to get some water? 03:
- 19 MR. COLE: Sure. 03:
- 20 THE WITNESS: Thank you. 03:
- 21 (Pause in proceedings.) 03:
- 22 BY MS. MCCLAIN: 03:
- 23 Q When you say, "If something different is 03:
- 24 coming in that we don't normally carry, I may 03:
- 25 leave a note as to where I want it," does that 03:

00244

1 mean that you may leave a note as to where it 03:

2 should be staged or where it should actually be 03:

3 on the floor or both? 03:

4 A Where it should be stocked. 03:

5 Q You generally develop an employee 03:

6 schedule every week? 03:

7 A Yes. 03:

8 Q Do you do that on Mondays? 03:

9 A I try to. 03:

10 Q Is that part of your office hours on 03:

11 Monday? 03:

12 A Sometimes. 03:

13 Q When it's not, when do you do it? 03:

14 A Usually Sunday. It can happen anytime 03:

15 between Sunday and Wednesday. 03:

16 Q How do you go about doing the 03:

17 scheduling, can you tell me what your process is? 03:

18 A You go into the Compass system, and it 03:

19 usually generates a cashiers' schedule for you. 03:

20 You make any adjustments necessary and then you 03:

21 schedule your freight and crew and your 03:

22 management staff yourself. 03:

23 Q When you say you make any adjustments 03:

24 necessary to the cashiers' schedule, can you give 03:

25 me some examples? 03:

00245

- 1 A Yeah. Sometimes it'll only schedule two 03:  
2 cashiers for an entire day, which leaves multiple 03:  
3 vacant shifts. So you have to go in and add 03:  
4 shifts. 03:  
5 One of the ongoing problems I've had is 03:  
6 it won't schedule me a cashier until 8:30 in the 03:  
7 morning, even though I open at 8:00. So you have 03:  
8 to account for all that when you change 03:  
9 everything. 03:  
10 Q So you add a cashier coming in before 03:  
11 eight o'clock; is that right? 03:  
12 A Yes. 03:  
13 Q You modify, then, the cashier scheduling 03:  
14 that you get? 03:  
15 A Yes. 03:  
16 Q Once you have the schedule prepared, do 03:  
17 you post it? 03:  
18 A Yes. 03:  
19 Q From that time forward, are there 03:  
20 changes in the schedule? 03:  
21 A Sometimes, yes. 03:  
22 Q What would cause a change? 03:  
23 A Somebody calling in sick. 03:  
24 Q Whose responsibility is it to change the 03:  
25 schedule? 03:

00246

- 1 A It's usually just written on the hand -- 03:  
2 on the printed out copy. And it's whichever 03:  
3 manager gets the call. 03:  
4 Q Do you get consulted from time to time 03:  
5 about those issues, so and so is not coming in, 03:  
6 what do I do? 03:  
7 A Yeah. 03:  
8 Q Is that an example of a call you might 03:  
9 get at home? 03:  
10 A Yes. 03:  
11 Q Do you ultimately approve switches in 03:  
12 the schedule? 03:  
13 A No. 03:  
14 Q You allow your assistant managers to do 03:  
15 that? 03:  
16 A Yes. 03:  
17 Q Do you try to get some sense of what 03:  
18 your employees' needs are for any given week 03:  
19 before you do the scheduling? 03:  
20 A Yes. 03:  
21 Q That is, if somebody has a doctor's 03:  
22 appointment or whatever? 03:  
23 A Yes. 03:  
24 Q How do you do that? 03:  
25 A We keep a stack of index cards in the 03:



00247

1 office, and they are allowed to write down days 03:

2 off that they need, and then leave them on my 03:

3 desk for me. 03:

4 Q Do you actually communicate to the 03:

5 employees as to whether that's all right or not 03:

6 or do they get that communication when they see 03:

7 the schedule? 03:

8 A That's typically the case, when they see 03:

9 the schedule. 03:

10 Q So you get these index cards, you work 03:

11 that into your scheduling, and hopefully 03:

12 accommodate as many of those requests as you can? 03:

13 A Yes. 03:

14 Q If you can't accommodate a request, do 03:

15 you talk to the employee about it? 03:

16 A I can only recall one time that it did 03:

17 not happen. 03:

18 Q Generally, you're able to do that? 03:

19 A Yes. 03:

20 Q What was the situation on the one 03:

21 occasion when it didn't happen? 03:

22 A An employee asked for Halloween off, one 03:

23 of the assistant managers, and I told her no. 03:

24 Because she was the only member of management 03:

25 that didn't have children. 03:

00248

1 **Q Did you tell her that was the reason? 03:**

2 **A Yes. 03:**

3 **Q Was that acceptable to her -- 03:**

4 **A No. 03:**

5 Q -- to your observation? 03:

6 A It was not. 03:

7 Q Did you stick with that rule or did you 03:

8 change it? 03:

9 A This year I asked for volunteers. 03:

10 Q But that year you said you need to work 03:

11 to that particular person? 03:

12 A Yes. But she did not work. 03:

13 Q Did you discipline her for that? 03:

14 A No, I did not. 03:

15 Q Why not? 03:

16 A I'm sorry? 03:

17 Q Why not? 03:

18 A It was Mike Cossolotto's decision. 03:

19 Q Why was that? 03:

20 A Because he was the district manager at 03:

21 the time. 03:

22 Q Why did you consult with Mr. Cossolotto 03:

23 about that? 03:

24 A She called him to complain. 03:

25 Q And he resolved the complaint? 03:

00250

- 1 Q You try? 03:
- 2 A I try to. Yes. 03:
- 3 Q And when you say, "ideally," why isn't 03:
- 4 that successful sometimes? 03:
- 5 A We have so few hours sometimes that we 03:
- 6 have to stretch the cashiers so thin that we 03:
- 7 can't take into regards how busy we are. It's 03:
- 8 just a matter of having somebody in the store so 03:
- 9 that the store can remain open. 03:
- 10 Q How many cash registers do you have 03:
- 11 operating in any given time in your store? 03:
- 12 A I'm not following that. 03:
- 13 Q How many cash registers do you have open 03:
- 14 at any given time? 03:
- 15 A With customers in line? Usually at 03:
- 16 least one. So just depends on the business. 03:
- 17 Q Did you hire additional employees for 03:
- 18 the holiday season? 03:
- 19 A Yes. 03:
- 20 Q How many did you hire? 03:
- 21 A I don't know. 03:
- 22 Q Whose decision was it as to how many to 03:
- 23 hire? 03:
- 24 A I was pretty much given free rein. 03:
- 25 Q Is that generally the case that you set 03:

00251

1 the number of employees that you have working on 03:

2 a part-time basis? 03:

3 A Yes. 03:

4 Q Do you agree that it's good to have as 03:

5 many employees as possible working on a part-time 03:

6 basis? 03:

7 A No. 03:

8 Q What don't you agree with, about that? 03:

9 A Well, the more employees you have, then 03:

10 the less hours the employees get on an individual 03:

11 basis. So I don't think it's fair to hire 03:

12 somebody and give them four hours a week. 03:

13 Q So you try to reach a balance between 03:

14 having enough additional people if there are 03:

15 emergencies and giving employees sufficient 03:

16 hours? 03:

17 A Yes. 03:

18 Q Do all of your part-time employees 03:

19 generally work four and a half hours? 03:

20 A Yes. 03:

21 Q When you go to hire an hourly associate, 03:

22 do you check with anyone? 03:

23 A No. 03:

24 Q Have there been hourly associates who 03:

25 have been promoted to the assistant manager level 03:

00252

- 1 while you've been at 2939? 03:
- 2 A Yes. 03:
- 3 Q Has that ever been a decision that you 03:
- 4 made by yourself? 03:
- 5 A No. 03:
- 6 Q Have you always consulted with the 03:
- 7 district manager about that? 03:
- 8 A Yes. 03:
- 9 Q Have you made recommendations to the 03:
- 10 district manager as to who you think should be 03:
- 11 promoted? 03:
- 12 A Yes. 03:
- 13 Q Has your recommendation ever been 03:
- 14 rejected? 03:
- 15 A I don't know. 03:
- 16 Q Are you -- can you recall a time when a 03:
- 17 district manager said no? 03:
- 18 A Nothing comes to mind. 03:
- 19 Q Is it your job as a store manager to 03:
- 20 oversee employees' safety? 03:
- 21 A Yes. 03:
- 22 Q Are you responsible for processing 03:
- 23 workers' compensation claims? 03:
- 24 A For doing the first little bit of 03:
- 25 paperwork, yes. 03:

00253

- 1 Q For doing the employer report of injury; 03:
- 2 is that right? 03:
- 3 A Correct. 03:
- 4 Q Is it your responsibility to make sure 03:
- 5 the employee gets medical care if needed? 03:
- 6 A Yes. 03:
- 7 Q Are you ultimately responsibility for 03:
- 8 the training of all of your store employees? 03:
- 9 A No. 03:
- 10 Q Who else is responsible, in your 03:
- 11 judgment? 03:
- 12 A My freight manager and, actually, my 03:
- 13 other assistants as well. 03:
- 14 Q So you delegate to your assistant store 03:
- 15 managers some training functions; is that right? 03:
- 16 A Yes. 03:
- 17 Q Who normally does the training on the 03:
- 18 cashiering functions, how to conduct a sales 03:
- 19 transaction? 03:
- 20 A Usually an assistant. 03:
- 21 Q Is that an assistant that you've chosen 03:
- 22 for that purpose? 03:
- 23 A Yes. 03:
- 24 Q Is that someone you think is 03:
- 25 particularly skilled at that? 03:

00254

- 1 A It's whoever happens to be working with 03:  
2 that person. 03:  
3 Q Do you have any of your assistant store 03:  
4 managers do that? 03:  
5 A Not the freight manager. 03:  
6 Q Do you have any of your assistant store 03:  
7 managers, aside from your freight manager, 03:  
8 trained on stocking? 03:  
9 A It happens occasionally. 03:  
10 Q Do you have assistant managers, aside 03:  
11 from the freight manager, train on building 03:  
12 displays? 03:  
13 A Say that one more time. 03:  
14 Q Yes. Do you have assistant store 03:  
15 managers train employees on building displays? 03:  
16 A Occasionally, yes. 03:  
17 Q And can that be any one of your 03:  
18 assistant store managers? 03:  
19 A Yes. 03:  
20 Q Do you agree that you're responsible for 03:  
21 understanding company human resource policies? 03:  
22 A To an extent, yes. 03:  
23 Q Why do you qualify that? 03:  
24 A I'm sorry? 03:  
25 Q Why do you qualify that, why do you say, 03:

00262

- 1 May I have this marked as next in order, 03:
- 2 please? 03:
- 3 (Exhibit 40 was marked for identification.) 03:
- 4 (Sotto voce discussion held.) 03:
- 5 BY MS. MCCLAIN: 03:
- 6 Q Do you recognize this document? 03:
- 7 A No, I don't. 03:
- 8 Q Is this document in your handwriting? 03:
- 9 A No, it's not. 03:
- 10 Q Have you ever seen this document before? 03:
- 11 A I don't think so, no. 03:
- 12 Q Have you ever made a notation, ever, 03:
- 13 while you've been a store manager at Dollar Tree, 03:
- 14 as to how much time you spend in any given 03:
- 15 function? 03:
- 16 A I'm not sure. 03:
- 17 Q Have you ever, at the end of the day, 03:
- 18 said I spent an hour on the cash register, I 03:
- 19 spent three hours in the office? That's the kind 03:
- 20 of notation I'm asking about. 03:
- 21 A I don't think so, no. 03:
- 22 Q You certainly haven't seen any such 03:
- 23 notes; is that right? 03:
- 24 A Yes. 03:
- 25 Q And you have no recollection of having 03:



00264

1 you spend more than 50 percent of your time on 03:

2 management functions, if that is accurate, 03:

3 correct? 03:

4 A I believe so. 03:

5 Q You have the option of saying yes or no 03:

6 online, correct? 03:

7 A Yes. 03:

8 Q Looking at the functions listed under, 03:

9 "Principal Duties and Responsibilities," do you 03:

10 agree that it is one of your principal duties and 03:

11 responsibilities to supervise associates? 03:

12 A Yes. 03:

13 Q Do you agree that it is one of your 03:

14 principal duties and responsibilities to oversee 03:

15 daily store activities? 03:

16 A Yes. 03:

17 Q Do you agree that it is one of your 03:

18 principal duties and responsibilities to ensure 03:

19 customer and associate safety? 03:

20 A Yes. 03:

21 Q Do you agree that it is one of your 03:

22 principal responsibilities to protect all company 03:

23 assets? 03:

24 A Yes. 03:

25 Q Do you agree that it is one of your 03:

00265

- 1 principal responsibilities to maintain proper 03:  
2 sales, banking, inventory, accounting, 03:  
3 productivity, payroll and time records? 03:  
4 A Yes. 03:  
5 Q Do you agree that it is one of your 03:  
6 responsibilities -- when I use the term 03:  
7 "responsibilities," I mean duties and 03:  
8 responsibilities -- to ensure adequate staffing 03:  
9 of the store? 03:  
10 A Yes. 03:  
11 Q Do you agree that it is one of your 03:  
12 principal responsibilities to recruit, interview, 03:  
13 hire, employ and train sales associates? 03:  
14 A Yes. 03:  
15 Q Do you agree that it is one of your 03:  
16 principal duties and responsibilities to schedule 03:  
17 and assign work to store personnel? 03:  
18 A Yes. 03:  
19 Q Do you agree that it is one of your 03:  
20 principal responsibilities to evaluate, motivate, 03:  
21 counsel and develop, discipline and discharge 03:  
22 sales associates appropriately? 03:  
23 A Which number are we on? I'm sorry. 03:  
24 Q I'm on seven, the second sentence. 03:  
25 A Aside from the evaluation, yes. 03:

00267

- 1 and direction to store personnel? 03:
- 2 A Yes. 03:
- 3 Q Do you agree that it is one of your 03:
- 4 principal responsibilities to communicate company 03:
- 5 policies to sales associates? 03:
- 6 A Yes. 03:
- 7 Q Do you agree that it is one of your 03:
- 8 primary responsibilities to ensure that 03:
- 9 associates comply with company policies and 03:
- 10 procedures? 03:
- 11 MR. COLE: You said "primary" or 03:
- 12 "principal"? You changed it. 03:
- 13 MS. MCCLAIN: Principal. 03:
- 14 MR. COLE: That's fine. Okay. Go ahead. 03:
- 15 THE WITNESS: Repeat that one time, please. 03:
- 16 BY MS. MCCLAIN: 03:
- 17 Q Do you agree that it is one of your 03:
- 18 principal responsibilities to ensure that 03:
- 19 associates comply with company policies and 03:
- 20 procedures? 03:
- 21 A Yes. 03:
- 22 Q Do you agree that it is a principal 03:
- 23 responsibility of yours to analyze sales? 03:
- 24 A Yes. 03:
- 25 Q Do you agree that it's a principal 03:

00271

1 extent, but most of the products has an area that 03:

2 it's supposed to be. 03:

3 Q What do you mean by cross merchandising? 03:

4 A Mix departments. For instance, put 03:

5 playing cards in front of the potato chips. 03:

6 Q On the theory that people who play cards 03:

7 eat potato chips? 03:

8 A Yes. 03:

9 Q Has that theory worked? 03:

10 A Yes. 03:

11 Q Was that your theory? 03:

12 A No. 03:

13 Q Whose theory was it? 03:

14 A That was corporate. 03:

15 Q But you have the ability to do that, 03:

16 right, to think if I put these two goods together 03:

17 on a gondola or a display table, maybe that would 03:

18 increase sales? 03:

19 A Yes. 03:

20 Q Do you have any example of a winning 03:

21 combination that you've come up with? 03:

22 MR. COLE: That's a bad pun. I'm sorry I 03:

23 didn't hear that. 03:

24 THE WITNESS: Off the top of my head, no, I 03:

25 don't. 03:

00272

- 1 **BY MS. MCCLAIN:** \_\_\_\_\_ **03:**
- 2 **Q** You think that's happened but you can't **03:**
- 3 give me an example right now? **03:**
- 4 **A** Yes. **03:**
- 5 **Q** Do you agree it's one of your principal **03:**
- 6 responsibilities to ensure standards of **03:**
- 7 merchandise presentation? **03:**
- 8 **A** Yes. **03:**
- 9 **Q** Would you include in the term **03:**
- 10 merchandise presentation displays and signage? **03:**
- 11 **A** Yes. **03:**
- 12 **Q** Have you ever assisted in developing **03:**
- 13 promotions? **03:**
- 14 **A** No. **03:**
- 15 **Q** Do you do a managers' promotion ever? **03:**
- 16 **A** Yes. **03:**
- 17 **Q** When is the last time you did one of **03:**
- 18 those? **03:**
- 19 **A** I'm not sure. It's been months and **03:**
- 20 months. **03:**
- 21 **Q** Do you recall the last one you did? **03:**
- 22 **A** No, I don't. **03:**
- 23 **Q** Do you recall why you decided to do **03:**
- 24 one? **03:**
- 25 **A** At the time, it was a corporate **03:**

00273

- 1 directive. 03:
- 2 Q Do a managers' promotion? 03:
- 3 A Yes. 03:
- 4 Q Was any guidance given to you as to what 03:
- 5 could be promoted or was that up to you? 03:
- 6 A Anything that was high margin. 03:
- 7 Q Covers some territory, doesn't it? 03:
- 8 A Yes. 03:
- 9 Q You don't recall what you selected? 03:
- 10 A No, I don't. 03:
- 11 Q Do you agree that it's one of your 03:
- 12 principal responsibilities to control inventory? 03:
- 13 A Yes. 03:
- 14 Q Do you agree that it's one of your 03:
- 15 principal responsibilities to supervise ordering, 03:
- 16 receiving and stocking? 03:
- 17 A Yes. 03:
- 18 Q Do you agree that it's one of your 03:
- 19 principal responsibilities to ensure that goods 03:
- 20 are properly marked and markdowns are properly 03:
- 21 recorded? 03:
- 22 A Yes. 03:
- 23 Q Do you have any role in the pricing of 03:
- 24 goods? 03:
- 25 A Some of the goods are two for a dollar. 03:

00274

1 So something comes in that's two for a dollar and 03:

2 it doesn't get priced correctly, then I'll do 03:

3 that. 03:

4 Q Have you ever made a recommendation to 03:

5 your district manager that a sale should occur on 03:

6 a particular item; that is, it should be four for 03:

7 a dollar rather than one for a dollar, for 03:

8 example? 03:

9 A I don't believe so. No. 03:

10 Q Do you know whether or not you have the 03:

11 authority to do that? 03:

12 A I don't know. 03:

13 Q Do you agree that it is one of your 03:

14 principal responsibilities to ensure the overall 03:

15 cleanliness and appearance of the store? 03:

16 A Yes. 03:

17 Q Do you agree that it's one of your 03:

18 principal responsibilities to ensure the highest 03:

19 level of customer service? 03:

20 A Yes. 03:

21 Q Do you agree that it's one of your 03:

22 principal responsibilities to handle customer 03:

23 complaints and problems? 03:

24 A Yes. 03:

25 Q Do you take responsibility for ensuring 03:

00275

- 1 that accident reports and damage reports are 03:  
2 completed in a timely and accurate manner? 03:  
3 A Yes. 03:  
4 Q Do you take responsibility for 03:  
5 completing management reports in a timely and 03:  
6 accurate manner? 03:  
7 A Yes. 03:  
8 Q Do you agree that it's one of your 03:  
9 principal responsibilities to ensure compliance 03:  
10 with applicable laws and regulations insofar as 03:  
11 they apply to your store? 03:  
12 A Yes. 03:  
13 Q Do you agree that it's one of your 03:  
14 principal responsibilities to communicate 03:  
15 professionally and effectively with customers, 03:  
16 subordinates and supervisors? 03:  
17 A Yes. 03:  
18 Q And so as I understand it, you received 03:  
19 these forms in hard copy from someone? 03:  
20 A Yes. 03:  
21 Q And that someone said to you, you've 03:  
22 missed filling out certifications, please do 03:  
23 these -- 03:  
24 A Yes. 03:  
25 Q -- or words to that effect? 03:



00276

1 Do you remember who you got them from? 03:

2 A No, I don't. 03:

3 Q They came in the mail? 03:

4 A Yes. 03:

5 Q Did you talk with anybody about these 03:

6 forms? 03:

7 A I don't believe so. 03:

8 Q Did you sit down and complete the 03:

9 forms? 03:

10 A Yes. 03:

11 Q Did you engage in that completion on 03:

12 December 11th, 2006? 03:

13 A Yes. 03:

14 Q Is the handwritten notation on the first 03:

15 page all in your own handwriting? 03:

16 A Yes. 03:

17 **Q So you wrote that out? 03:**

18 **A Yes. 03:**

19 **Q Do you view building end caps as a 03:**

20 **management responsibility? 03:**

21 **A No. 03:**

22 **Q Do you view engaging in creativity with 03:**

23 **regard to end caps as a management 03:**

24 **responsibility? That is, developing a new end 03:**

25 **cap? 03:**

00277

1 A Yes. 03:

2 Q So if all you're doing is putting 03:

3 something in place in precise position as 03:

4 suggested to you in a picture, you don't think 03:

5 that's a management responsibility; but if you're 03:

6 pulling goods from other parts of the store and 03:

7 you're creating your own wow table, you believe 03:

8 that's a management responsibility? 03:

9 A No. 03:

10 Q What's wrong about that statement? 03:

11 A If I'm telling somebody how to do it, 03:

12 that's managerial. 03:

13 Q So you think it's not a managerial 03:

14 function in any way, shape or form to actually 03:

15 physically help build the end cap; is that right? 03:

16 A Correct. 03:

17 Q Have you ever told anyone that that's 03:

18 your impression? 03:

19 A Yes. 03:

20 Q Who have you told? 03:

21 A Mr. Cossolotto, Rick. Other store 03:

22 managers. 03:

23 Q Have Mr. Cossolotto and Mr. Tellstrom 03:

24 agreed with you? 03:

25 A I can't recall. 03:

00315

1 A He was unhappy with the company. 04:

2 Q Did he tell you any more details than 04:

3 that? 04:

4 A He may have. I don't remember. 04:

5 Q Do you know where he is today? 04:

6 A Los Angeles. 04:

7 Q Do you know what he's doing in Los 04:

8 Angeles? 04:

9 A He's working in retail. 04:

10 Q Do you know for what company? 04:

11 A I don't remember. 04:

12 Q Did he relocate to Los Angeles, to your 04:

13 knowledge? 04:

14 A I believe his wife is still here, and 04:

15 he's in Los Angeles. 04:

16 Q You wrote as of May 27, 2006, that you 04:

17 had spent more than 50 percent of your time 04:

18 performing supervisory duties -- job duties and 04:

19 responsibilities, correct, for that particular 04:

20 week? 04:

21 A Yes. 04:

22 Q Do you know now what you were doing that 04:

23 week? 04:

24 A No. 04:

25 Q Was this a truthful statement on your 04:

00316

1 part that you spent more than 50 percent of your 04:

2 time on supervisory duties and responsibilities? 04:

3 A Yes. 04:

4 Q At present, can you describe to me the 04:

5 circumstances which allow you, in particular, to 04:

6 spend more than 50 percent of your time on 04:

7 management or supervisory responsibilities? 04:

8 MR. COLE: Can I get a readback on that, 04:

9 please? 04:

10 (Record read as follows: 04:

11 Question: At present, can you 04:

12 describe to me the circumstances 04:

13 which allow you, in particular, to 04:

14 spend more than 50 percent of your 04:

15 time on management or supervisory 04:

16 responsibilities?) 04:

17 BY MS. MCCLAIN: 04:

18 Q Do you understand the question? 04:

19 A I think so. I don't think there are 04:

20 circumstances that make it possible for me to be 04:

21 compliant routinely. 04:

22 Q Well, but we know there are times when 04:

23 you were compliant, correct? 04:

24 A Yes. 04:

25 Q So my question is: What was special 04:

00317

1 about those times in your judgment or observation 04:

2 that allowed you to do that? 04:

3 A I couldn't be specific. I don't know. 04:

4 Q You were always trying to be compliant, 04:

5 correct? 04:

6 A Yes. 04:

7 Q There are times when you were able to do 04:

8 that, correct? 04:

9 A Yes. 04:

10 Q But you can't tell me what circumstances 04:

11 combined to allow that to occur? 04:

12 A I can give vague ideas. 04:

13 Q What are your ideas in that regard? 04:

14 A There may be times where we did a lot of 04:

15 hiring, times I may not have been feeling well so 04:

16 I spent more time in the office. I can't be more 04:

17 specific. Possibly a new hire management wise 04:

18 that I had to train. 04:

19 Q Given that Dollar Tree is telling you 04:

20 again and again to spend a majority of your time 04:

21 in management and supervisory functions, why 04:

22 don't you just do that? 04:

23 A It's impossible, in my opinion. 04:

24 Q Why do you say that? 04:

25 A Because if I spent my time in the 04:

00318

- 1 office, then the sales floor falls apart. 04:
- 2 Q Well, your sales floor already fell 04:
- 3 apart, right? 04:
- 4 MR. COLE: Objection. Argumentative. 04:
- 5 BY MS. MCCLAIN: 04:
- 6 Q You think it would fall apart even 04:
- 7 more? 04:
- 8 A Yes. 04:
- 9 Q Did it ever occur to you that it might 04:
- 10 improve if you spent more time planning and 04:
- 11 instructing people? 04:
- 12 A No. 04:
- 13 Q Has anyone ever suggested that to you? 04:
- 14 A Yes. 04:
- 15 Q But you don't buy it? 04:
- 16 A No. 04:
- 17 Q Why not? 04:
- 18 A Because I work in the store, and I know 04:
- 19 how it is. 04:
- 20 Q You've never tried it? 04:
- 21 A I'm sorry? 04:
- 22 Q Have you ever tried it? Have you ever 04:
- 23 tried consciously spending a majority of your 04:
- 24 time planning and delegating and supervising to 04:
- 25 see how that worked out? 04:

00319

1 **A No.** 04:

2 MS. MCCLAIN: May I have this marked as next 04:

3 in order? 04:

4 (Exhibit 49 was marked for identification.) 04:

5 BY MS. MCCLAIN: 04:

6 Q Is this one of the certifications that 04:

7 you kept? 04:

8 A I don't know. 04:

9 Q Do you recognize this as a certification 04:

10 you completed in April of 2006? 04:

11 A Yes. 04:

12 Q When you say, "Labor cut by DM again," 04:

13 what do you mean by that? 04:

14 A That means that at this point, Mike 04:

15 would have cut hours which -- 04:

16 Q Cut hours from what? 04:

17 A -- which resulted in -- from my staff. 04:

18 Q From hours you had already been given? 04:

19 A Yes. 04:

20 Q So when do you get the projected hours 04:

21 for any given week? 04:

22 A I'm sorry? 04:

23 Q What day of the week do you get 04:

24 projected hours? 04:

25 A Usually the prior Monday to that week. 04:

00363

- 1 Q Saying that you think you're being 05:  
2 written up too often now and at least it raises a 05:  
3 question in your mind as to retaliation? 05:  
4 A I don't know if I've been specific, but 05:  
5 I've beat around the bush with Candace. 05:  
6 Q How did you beat around the bush? 05:  
7 A Just by telling her all my stuff. 05:  
8 Q You thought it was unfair? 05:  
9 A Yeah. She visited my store, and I told 05:  
10 her he's been on my case big time since the day 05:  
11 my suit was filed. And she told me she would 05:  
12 address it. 05:  
13 Q Has she addressed it? 05:  
14 A Not to my knowledge. 05:  
15 Q Do you agree or disagree that basic 05:  
16 store standards have been lacking in your store? 05:  
17 A I agree. 05:  
18 Q Do you agree or disagree that markups, 05:  
19 markdowns have not been processed in a timely 05:  
20 manner? 05:  
21 A No, I don't. 05:  
22 Q And are you doing that on a daily basis, 05:  
23 markups and markdowns? 05:  
24 A To the best of our ability. 05:  
25 Q Are there some that have not been 05:



00364

1 accomplished in that time frame? 05:

2 A Yes. 05:

3 Q Do you agree that the door seal log has 05:

4 not been completed since July 4, 2007? 05:

5 A I disagree. 05:

6 Q Do you think that's a totally inaccurate 05:

7 statement or partially? 05:

8 A We have two door seal logs. One is 05:

9 filled out every single day on a correct basis; 05:

10 the other is on an emergency exit, which we do 05:

11 not have to break the seal to check the alarm on 05:

12 the door. 05:

13 Q So you don't think you have to fill out 05:

14 a seal log for that one? 05:

15 A You're supposed to fill out every time 05:

16 you change the seal. We haven't changed the seal 05:

17 since July. You can check the alarm just by 05:

18 bumping the handle on the door. 05:

19 Q Have you explained that to 05:

20 Mr. Tellstrom? 05:

21 A It was written in bold letters across 05:

22 the bottom of the log. 05:

23 Q Have you explained that to 05:

24 Mr. Tellstrom? 05:

25 A No, I have not. 05:

00365

- 1 Q Do you agree or disagree that Christmas 05:  
2 merchandise was still on your risers and not out 05:  
3 per the deadline date of 12/9? 05:  
4 A Yes. 05:  
5 Q Do you agree -- that means you agree, 05:  
6 right? 05:  
7 A Yes. 05:  
8 Q Do you agree that Christmas pack aways 05:  
9 are still in the back room? 05:  
10 A Yes. 05:  
11 Q Do you agree that the freight flow 05:  
12 process has not been to company standards? 05:  
13 A No. 05:  
14 Q You think your freight flow process has 05:  
15 been fine? 05:  
16 A I think that my stockers exceed the 05:  
17 company standards, but they are not provided with 05:  
18 enough hours to meet the company expectations. 05:  
19 Q As I read that sentence it means there's 05:  
20 freight still in your storeroom that's not on the 05:  
21 floor as it should be. Do you read it that way? 05:  
22 A Yes. 05:  
23 Q Do you agree with that, that there is 05:  
24 freight in your stockroom that should be on the 05:  
25 floor? 05:

00369

- 1 differently? 05:
- 2 A I don't remember. 05:
- 3 Q Did Mr. Tellstrom tell you that he felt 05:
- 4 differently? 05:
- 5 A Yes. 05:
- 6 Q Did Ms. Hammond tell you she felt 05:
- 7 differently? 05:
- 8 A Yes. 05:
- 9 Q They didn't ascribe to the let-the- 05:
- 10 customer-trip-over-the-goods theory, right? 05:
- 11 A Correct. 05:
- 12 Q Had there been times in the last several 05:
- 13 months when deposits were not made when the 05:
- 14 amount of money reached 4,000? 05:
- 15 A Yes. 05:
- 16 Q And that is a violation of the company 05:
- 17 asset protection rule, correct? 05:
- 18 A Yes. 05:
- 19 Q And were there times when combined 05:
- 20 deposits were taken to the bank? 05:
- 21 A I'm not sure what that means. 05:
- 22 Q Did you ask Mr. Tellstrom what it meant? 05:
- 23 A No, I did not. 05:
- 24 Q Do you agree or disagree that register 05:
- 25 audits were not being done consistently? 05:

00370

1 A Yes. 05:

2 Q You agree? 05:

3 A Yes. 05:

4 Q Do you agree that the bank deposit log 05:

5 was not being filled out by you or your team? 05:

6 A No. 05:

7 Q Did that happen on occasion? 05:

8 A It has happened, yes. 05:

9 Q But you wouldn't say it was consistent, 05:

10 correct? 05:

11 A Correct. 05:

12 Q Do you agree that you do not 05:

13 consistently hold your team accountable for high 05:

14 store standards? 05:

15 A No, I don't. 05:

16 Q Do you agree that the shelves and 05:

17 fixtures have been dirty and in need of cleaning? 05:

18 A Yes. 05:

19 Q Do you agree that your assistant 05:

20 managers do not have a clear expectation of your 05:

21 job responsibilities? 05:

22 A No. 05:

23 Q Mr. Tellstrom has set forth some 05:

24 suggestions, correct? 05:

25 A Yes. 05:

00371

- 1 Q Those suggestions are, "set aside time 05:  
2 for yourself to strategically plan your workload 05:  
3 by utilizing your daily planner." 05:  
4 Have you done that? 05:  
5 A Yes. 05:  
6 Q And are you continuing to do it? 05:  
7 A Yes. 05:  
8 Q And these are the to-do list we'll find 05:  
9 on your clipboard, correct? 05:  
10 A Yes. 05:  
11 Q And have you taken time to analyze 05:  
12 reports and tools that are available? 05:  
13 A Somewhat. Yes. 05:  
14 Q And you think you could increase your 05:  
15 commitment to that? 05:  
16 A Possibly. 05:  
17 Q Are you going to do that? 05:  
18 A That all focuses on hours. 05:  
19 Q Pardon me? 05:  
20 A That all focuses on hours, in my 05:  
21 opinion. 05:  
22 Q Why would analyzing an ordering report, 05:  
23 for example, focus on hours? 05:  
24 A Well, if Rick calls me up and tells me 05:  
25 he expects a certain amount of things done that 05:

00372

- 1 day, I'm going to go out and do those things 06:
- 2 rather than sit in the office and analyze 06:
- 3 paperwork. 06:
- 4 Q But Rick has told you what he wants you 06:
- 5 to do is sit in the office and analyze paperwork, 06:
- 6 correct? 06:
- 7 A Correct. 06:
- 8 Q He wants you to tell somebody else to go 06:
- 9 out there and do the work, correct? 06:
- 10 A Sometimes. 06:
- 11 Q So why wouldn't you do it the way 06:
- 12 Mr. Tellstrom wants it done? 06:
- 13 A Due to -- 06:
- 14 Q You're in the office and somebody else 06:
- 15 on the floor -- 06:
- 16 MR. COLE: Counsel. Counsel. It's not going 06:
- 17 to work this way. Let my client answer the 06:
- 18 question before you go to the next one, please. 06:
- 19 MS. MCCLAIN: I'm sorry. I wasn't quite done 06:
- 20 with my question. Let me start again. 06:
- 21 MR. COLE: Go ahead. 06:
- 22 BY MS. MCCLAIN: 06:
- 23 Q Have you tried to meet Mr. Tellstrom's 06:
- 24 request that you spend time in the office and you 06:
- 25 delegate the work on the floor? 06:

00373

1 A No. 06:

2 Q Why not? 06:

3 A Because I feel it's impossible. 06:

4 Q But that's just your feeling, right, 06:

5 because you haven't tried it, you don't know? 06:

6 MR. COLE: Objection. Argumentative. 06:

7 BY MS. MCCLAIN: 06:

8 Q Isn't that right? So you haven't tried 06:

9 to see what happens if you plan and analyze and 06:

10 delegate? 06:

11 MR. COLE: Just focusing on the question. 06:

12 Objection. I think it's overly broad and I think 06:

13 he's testified to the contrary. 06:

14 But you can answer. Go ahead. 06:

15 THE WITNESS: One more time, please? 06:

16 MS. MCCLAIN: Sure. 06:

17 Q You say it's impossible. You think it's 06:

18 impossible to do it that way, to have you 06:

19 primarily analyzing and planning and delegating. 06:

20 But how do you know that, really, because it 06:

21 doesn't sound like you've tried? 06:

22 MR. COLE: Objection. Misstates testimony. 06:

23 If you understand the question, you can answer 06:

24 though. 06:

25 THE WITNESS: I believe the expectations that 06:

00374

1 are given to us contradict his expectation of me 06:

2 sitting in the office. 06:

3 BY MS. MCCLAIN: 06:

4 Q But you've never really tried his way; 06:

5 is that right? 06:

6 MR. COLE: Objection. Vague and ambiguous as 06:

7 -- 06:

8 MS. MCCLAIN: Well, that's the question. 06:

9 Q Have you ever -- 06:

10 MR. COLE: -- as to the term "his" -- 06:

11 objection. Vague and ambiguous as to the scope 06:

12 of the term, "his way." 06:

13 If you understand the question, you can 06:

14 go ahead and answer. 06:

15 MS. MCCLAIN: I can ask it more specifically. 06:

16 MR. COLE: Sure. 06:

17 BY MS. MCCLAIN: 06:

18 Q Have you ever made a concerted effort, 06:

19 let's say on a weekly basis, to analyze, plan and 06:

20 delegate as opposed to going out on the floor and 06:

21 helping stock? 06:

22 A No. 06:

23 MS. MCCLAIN: Let me take a quick break and 06:

24 we'll finish up. 06:

25 MR. COLE: Sure. 06:



00377

- 1 that right? 06:
- 2 MR. COLE: Objection. Calls for speculation 06:
- 3 as to what may be. 06:
- 4 BY MS. MCCLAIN: 06:
- 5 Q If you know. 06:
- 6 A I don't. 06:
- 7 Q Do you know whether this phenomenon 06:
- 8 would apply as well to July 4th or Mother's Day 06:
- 9 or Valentine's Day? 06:
- 10 MR. COLE: If you know. 06:
- 11 THE WITNESS: I don't know positively. No. 06:
- 12 BY MS. MCCLAIN: 06:
- 13 Q Have there been times when you directed 06:
- 14 others on building a display? 06:
- 15 A Yes. 06:
- 16 Q And would that be an end cap display? 06:
- 17 A It could be any display in the store. 06:
- 18 Q So what are the possibilities? 06:
- 19 A End caps, aisles, frozen department, 06:
- 20 anything. 06:
- 21 Q Do you build gondolas from time to time? 06:
- 22 A Yes. 06:
- 23 Q Do you use -- "you" meaning the store. 06:
- 24 Does the store use pallet displays from time to 06:
- 25 time? 06:

00378

- 1 A We have, yes. 06:
- 2 Q Does the store use cut crate displays 06:
- 3 from time to time? Does that term make sense to 06:
- 4 you? You take the box that the goods come in and 06:
- 5 you cut it and leave it in the box. 06:
- 6 A Tray cut? 06:
- 7 Q What do you call it? 06:
- 8 A Tray cut. 06:
- 9 Q Yes? 06:
- 10 A Yes. 06:
- 11 Q Does store 2939 use tray cut displays 06:
- 12 from time to time? 06:
- 13 A Yes. 06:
- 14 Q And who decides on all those displays, 06:
- 15 whether there's a gondola or a tray cut or a 06:
- 16 pallet display? 06:
- 17 A Myself or my freight manager. 06:
- 18 Q Are there times when you've been working 06:
- 19 side-by-side with your freight manager, for 06:
- 20 example, in building a wow table; that is, you're 06:
- 21 both running around the store grabbing candy or 06:
- 22 glasses? 06:
- 23 A I'm sure it's happened, yes. 06:
- 24 Q And that's a table that you're putting 06:
- 25 together based upon what you think goes together 06:

00379

- 1 nicely, in colors or goods or whatever? 06:
- 2 A Yes. 06:
- 3 Q And would you view that as a creative 06:
- 4 display? 06:
- 5 A Yes. 06:
- 6 Q If you were working in that fashion, 06:
- 7 that is not only directing the freight manager 06:
- 8 but actually going to some part of the store and 06:
- 9 grabbing a balloon, let's say a green balloon for 06:
- 10 St. Patrick's Day, would you view that as an 06:
- 11 exempt function, a non-exempt function or you 06:
- 12 don't know? 06:
- 13 MR. COLE: Objection. Calls for a legal 06:
- 14 conclusion. 06:
- 15 You don't have to guess as to what the 06:
- 16 law might say about that function. 06:
- 17 BY MS. MCCLAIN: 06:
- 18 Q What is your view? When you think about 06:
- 19 whether you're performing 51 percent of your time 06:
- 20 in management functions, how do you count that 06:
- 21 work? 06:
- 22 A If I am building a display, then I am 06:
- 23 doing a non-management function. 06:
- 24 Q Even if you are developing ideas for the 06:
- 25 display and helping grab things to put in the 06:

00380

1 display, you still view it as a non-management 06:

2 function; is that right? 06:

3 A Yes. 06:

4 Q Even if your input is creative as well? 06:

5 A Yes. 06:

6 MS. MCCLAIN: Thank you, Mr. Runnings. 06:

7 That's all. 06:

8 THE VIDEOGRAPHER: This concludes the 06:

9 deposition of Robert Runnings. The total number 06:

10 of tapes used today was four. We are now off the 06:

11 record at approximately 6:15 p.m. 06:

12 (Time noted: 6:15 p.m.)

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Preferred Reporters  
19229 Sonoma Highway, #112  
Sonoma, California 95476-5413

January 3, 2008

To: Robert Lewis Runnings  
SCOTT COLE & ASSOCIATES  
ATTN: SCOTT COLE, ESQUIRE  
1970 Broadway, Ninth Floor  
Oakland, California 94612

Re: Runnings v. Dollar Tree Stores  
Deposition taken on December 17, 2007  
Reported by Linda Vaccarezza, CSR #10201

Dear Mr. Runnings,

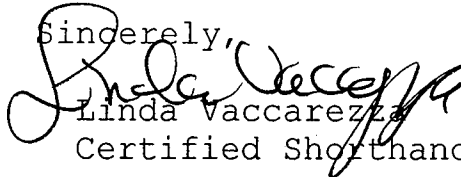
The original transcript of your deposition taken in the above-entitled action has been prepared and is available at this office for your reading, correcting and signing.

You may wish to discuss this matter with your attorney to determine if counsel requires that the original transcript of your deposition be read, corrected and signed by you before it is sealed.

Your rights regarding signature of this deposition are contained in the California Code of Civil Procedure.

If you wish to make arrangements to review the original transcript of your deposition, please contact this office during office hours, 9:00 to 5:00 Monday through Friday, to make an appointment to review the original transcript.

Sincerely,



Linda Vaccarezza  
Certified Shorthand Reporter

cc: All Counsel

CONFIDENTIAL

ID	Store #	Store Mgr Name	Date	Payroll Week	District Mgr Name	Regional Dir Name	Phone Number	Answer	Reason
142	2939	Robert Runnings	6/12/2005	6/11/2005	COSSOLOTT	M. RODRIGUES	7074590953	N	Worked 1 week overnights for inventory prep
688	2939	Robert Runnings	7/3/2005	6/26/2005	COSSOLOTT	M. RODRIGUES	7074590953	Y	
912	2939	Robert Runnings	7/11/2005	7/9/2005	COSSOLOTT	M. RODRIGUES	7074590953	Y	
1346	2939	Robert Runnings	7/25/2005	7/23/2005	COSSOLOTT	M. RODRIGUES	7074590953	Y	
1733	2939	Robert Runnings	8/15/2005	8/13/2005	COSSOLOTT	M. RODRIGUES	7074590953	Y	
3426	2939	Robert Runnings	11/21/2006	11/19/2006	COSSOLOTT	M. RODRIGUES	7074590953	Y	
4607	2939	Robert Runnings	2/6/2006	2/4/2006	COSSOLOTT	M. RODRIGUES	7074590953	N	Getting ready for visit.
4781	2939	Robert Runnings	2/13/2006	2/11/2006	COSSOLOTT	M. RODRIGUES	7074590953	N	Impossible
5451	2939	Robert Runnings	3/20/2006	3/18/2006	COSSOLOTT	M. RODRIGUES	7074590953	N	DM cut hours
7281	2939	Robert Runnings	7/6/2006	7/1/2006	COSSOLOTT	R. HAMMOND	7074590953	Y	
9409	2939	Robert Runnings	9/28/2006	9/23/2006	COSSOLOTT	R. HAMMOND	7074590953	Y	
9410	2939	Robert Runnings	9/28/2006	9/23/2006	COSSOLOTT	R. HAMMOND	7074590953	Y	
9411	2939	Robert Runnings	9/28/2006	9/23/2006	COSSOLOTT	R. HAMMOND	7074590953	Y	3rd time for this week
9742	2939	Robert Runnings	10/2/2006	9/30/2006	COSSOLOTT	R. HAMMOND	7074590953	Y	
12665	2939	Robert Runnings	1/29/2007	1/29/2007	R. TELLSTROM	R. HAMMOND	7074590953	N	Not enough hours
13042	2939	Robert Runnings	2/19/2007	2/19/2007	R. TELLSTROM	R. HAMMOND	7074590953	N	stocking
13287	2939	Robert Runnings	3/4/2007	2/24/2007	R. TELLSTROM	R. HAMMOND	7074590953	N	Throwing freight
16385	2939	Robert Runnings	7/10/2007	7/7/2007	R. TELLSTROM	R. HAMMOND	7074590953	Y	Hurt my back, had to sit in office for a day, take it easy all week.
17558	2939	Robert Runnings	9/2/2007	8/29/2007	R. TELLSTROM	R. HAMMOND	7074590953	N	Not compliant due to Freight Manager being out on vacation. I ran freight crew during his days off.
17962	2939	Robert Runnings	9/17/2007	9/16/2007	R. TELLSTROM	R. HAMMOND	7074590953	N	Processing freight.

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